The Incorporated Accountants' Journal

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Professional Notes.

THE Budget, which was expected to be a rather colourless affair, provided some surprises. In the first place there is to be an addition of 3d. in the £ to the standard rate of income tax and an extra 2d. duty on tea, neither of which was anticipated. Then, as a set off to the additional income tax rate, an extra personal allowance of £10 is to be granted to married couples together with an extra allowance of £10 per child. Taking all these income tax changes into account, the general effect will be that married couples without children will pay less than last year on earned incomes up to £450; with one child they will pay less up to £700; and with two children up to £1,000. The heavier taxation will thus fall mainly upon the higher incomes and upon single persons.

It will be seen from the report of the Chancellor of the Exchequer's Budget Speech which we publish in another column, that, on the present basis of taxation, he estimates that there would be a deficiency for the year 1936-37 of over £21,000,000. Towards this deficiency the extra duty on tea is calculated to bring in £3,500,000 additional income in the current year, and the increase in the standard rate of income tax £12,000,000, against which the increased personal and children's allowances are expected to cost £2,000,000, so that the net increase from these sources would be 13½ millions. Over five millions is to be taken from the Road Fund, thus leaving about three millions still required. This amount is to be found by making provisions against avoidance of income tax and sur-tax, (1) by persons living in this country transferring property to persons abroad while still retaining control and enjoying the income, (2) by the manipulation of one-man companies at home, and (3) by executing educational trusts for children. The first two of these are expected to produce two millions in the present year and four millions in a full year, and No. 3 is calculated to produce one million this year and 2½ millions in a full year.

As stated by the Chancellor of the Exchequer, the knowledge of these devices for avoiding taxation is becoming exceedingly widespread, but we doubt if many people imagined that the loss to the Exchequer in a full year would amount to as much as £6,500,000.

It has been expected for several years past that a stop would be put to the creation of educational trusts for avoidance of tax, and it is therefore no surprise that they are now to be prohibited. Accountants have often found themselves in a difficult position regarding these trusts. On the one hand they had some hesitation in advocating their use, whilst on the other hand, if they failed to do so their clients, on finding that other taxpayers were

using the device, were likely to take the view that their own interests were being neglected. While it is true that taxpayers are entitled to use any legal means to avoid taxation, this particular device seemed to be on the border line and not altogether desirable. We are therefore disposed to think that the accountancy profession will not be sorry to see the stoppage of a procedure which many taxpayers hesitated to adopt and which was providing a happy hunting ground for income tax agencies and canvassers.

It can never be wise to allow a law to remain unaltered the obvious object and intention of which can be avoided by a means which was never contemplated when it was enacted. From the discussion on the Financial Resolutions, however, there seems to be some uncertainty as to whether the proposals of the Chancellor are to apply to irrevocable trusts in the same way as to revocable trusts.

Orders have been made by the Committee constituted under the Solicitors Act, 1932, whereby the increase of 33⅓ per cent. in the remuneration of solicitors for non-contentious business and business under the Land Registration Act, 1925, granted in 1919 and 1925, and reduced to 20 per cent. in 1932, has now been re-instated at the full 33⅓ per cent. This has been done as a result of representations made to the Lord Chancellor by a deputation from the Law Society, who submitted that the 33⅓ per cent. allowance was completely absorbed by increased expenses in the form of rent, rates and salaries. The new order takes effect as from April 13th, and will not refer to business transacted or undertaken before that date.

In relation to foreign borrowing, the Chancellor of the Exchequer has appointed an Advisory Committee, with Lord Kennet as Chairman and the Deputy Governor of the Bank of England as one of its members, to advise him from time to time upon the scope of restriction on foreign issues. The matter being of a complicated nature, detailed terms of reference and instructions are to be given to the Committee. In answer to questions in the House of Commons, Mr. Chamberlain gave an assurance that he would retain the ultimate control of the operations of the Committee and that his present responsibility to the House of Commons would be unimpaired.

The ban on foreign issues, although not legally authorised, has been in force since June, 1932, being based on a request made by the Chancellor of the Exchequer at the time of the great War Loan conversion. Since then there have been occasional concessions to enable British capital to resume or acquire ownership of business undertakings. The embargo has also been mitigated in favour of sterling countries and of loans calculated to bring benefit to British trade. It is assumed, however, from the action now taken that further latitude is contemplated.

The right to use the time honoured "white patch" on the collars of their coats which has denoted the rank of midshipman since uniform for naval officers was first introduced in 1748, has now been extended to Officers of corresponding grade in the Accountant branch of the Royal Navy. The same applies to the wearing of the dirk which midshipmen and cadets have, since the close of the Russian War in 1856, worn in place of the sword.

A further increase of one florin per 100 kilogrammes in the export duty on native rubber has been imposed by the Dutch Indies Government. This raises the impost to 35 florins. When the restriction scheme commenced to operate on June 1st, 1934, this export duty was only 10 florins per 100 kilogrammes, and has been increased and decreased from time to time, but the general tendency has been a regular rise in the duty, there having been no decrease since July, 1935. In rubber circles there seems to be some hope that the firm action of the Dutch Indies Government in keeping the native exports under control combined with the favourable trend of American consumption and the continued decrease in rubber stocks will tend to harden the price of the commodity, but meantime the decision to increase the export quota from 60 to 65 per cent. on the 1st of July is having a retarding effect.

The cost of living statistics compiled by the Ministry of Labour (which include food, rent, clothing, fuel and light and miscellaneous items) show that the average level of retail prices was, at the end of March last, 44 per cent. above the level of July, 1914. This compares with a rise of 46 per cent. at the end of February and 39 per cent. a year ago. For food alone the percentages show a rise of 26 at the end of March, 29 at the end of February and 19 a year ago.

The basis of assessment for Income Tax purposes of income from foreign possessions came before

the Court recently in the case of *Carter* v. *Sharon*. Mrs. Sharon, an American citizen with a considerable income from American stocks and shares, came to this country during 1927-28, but did not become liable to be treated as resident here in that year. She was admittedly resident, however, for the year 1928-29, and the Inland Revenue Authorities claimed tax for that year on the basis of the income received in this country in the year of assessment, but Mr. Justice Lawrence upheld the respondent's contention that the assessment must be based upon the income of the preceding year.

A further point of some interest also arose in the same case. Mrs. Sharon, who is a widow, had for many years made a voluntary allowance through an agent in America to a daughter resident in the United Kingdom, and the Crown sought to treat the amount of the allowance as being income received in this country to which the respondent was entitled and therefore assessable to Income Tax. Evidence was given that, according to American law, the gift to the daughter was made in such a way that it was complete and irrevocable in America. In his Lordship's view this fact distinguished the case from *Timpson's* case recently decided in the Court of Appeal, and he accordingly held that the amount of the gift was not income upon which the respondent was liable to Income Tax.

The Court of Appeal have now given their reasons for approving the scheme of capital reduction of Imperial Chemical Industries Limited. Four objections were raised. The first was that on the true construction of the company's Articles the company had no power to reduce its capital in the manner proposed. The Court considered that the power was taken in the way in which the company was, under the Statutes, authorised to do. The second objection that a class meeting could not be treated as a separate meeting of the class if other persons were present, was held by the Court to be without foundation, and their Lordships said that in the particular circumstances it was not easy to see how the meetings could otherwise have been held. As regards the third objection that the circular issued by the directors was inadequate, the Court saw no reason to differ from the conclusion of Mr. Justice Eve that a refusal to confirm the resolution could not properly be based on any criticism of the circular in question. Respecting the final objection that the scheme was one which the Court ought not to approve, the Court considered that this was eminently the type of question in regard to which it was true to say that shareholders acting honestly were much better judges of what was to their commercial advantage than the Court could be.

Mr. Justice Hilbery, proposing the toast of the Institute of Shorthand Writers at its annual dinner last month, acknowledged his indebtedness to members of that Institute who, he said, did not even ask a judge to be grammatical but only—too often in vain—that he should be audible. He thought that the shorthand writers of the Law Courts might well call themselves an Institute of Editors, as in reporting they had often to recast sentences which were involved or ungrammatical. The President of the Institute, in replying, commented on the increased pace of speaking, and said that on any day when the Courts were fully manned the output was about a million words, "a good many of which were mutilated and ragged, but still more in disorder." He added that if the pace at which people talked continued to increase it would not be long before it would get beyond the capacity of human effort to record it.

Under the head of "Our Incomparable Ability to Forget," the *Journal of Accountancy*, New York, makes some strong observations with regard to American national finance. The Editor says:—"The gay nonchalance with which the country has become spendthrift far beyond its means and the apparent indifference with which increasing deficits have been regarded have caused grave misgivings among the intelligent part of the people, and it has been freely predicted that the nation before long will lose its credit and wreck its future. Yet scarcely a day passes without some unpremeditated appropriation of funds which do not exist, and must be derived from heaven knows where. A balanced budget is mentioned occasionally in the councils of the temporarily mighty, but it is rather as a sort of academic and remote possibility than as a vitally necessary condition to prosperity. As the American reads his morning paper and learns of fresh inroads upon the capital structure of the country he gasps; if he be an ordinary middle-of-the-road man he swears a little, and then straightway forgetteth what manner of fear it was which afflicted him yesterday. It is all part of our national capacity for forgetting. That it is unwholesome and mortally dangerous we know, in our rare moments of calm contemplation, but we do nothing much about it and have an innate feeling of confidence that in spite of all the perils that surround us we shall yet emerge victorious and happy."

THE INCOME TAX BILL.

IN 1927 the Chancellor of the Exchequer appointed a Committee to prepare a draft Bill to codify the law relating to Income Tax. The reference stated that it was to be a special aim of the Committee to make the law as intelligible to the taxpayer as the nature of the legislation would admit, and for that purpose they were given power " to suggest any alterations which, while leaving substantially unaffected the liability of the taxpayer, the general system of administration and the powers and duties of the various authorities concerned therein, would promote uniformity and simplicity." In their report the Committee state that they have interpreted liberally the word " substantially " in reference to the liability of the taxpayer not being affected, and have accordingly in the draft Bill frequently removed minor anomalies.

After about 8½ years the result of the Committee's labours has been produced and a draft Bill has been prepared which may be obtained from H.M. Stationery Office or from any bookseller at the price of 4s. 6d. From the terms of the appointment it will be gathered that the Bill is not exclusively a codification of the present law, but that in some respects it embodies amendments. In the lengthy report issued concurrently with the Bill (and obtainable at the price of 8s.) a table is given indicating the alterations of most practical importance with a reference to the clauses of the Bill where the alterations appear and also the passages in the report where they are severally described and explained.

The Bill occupies a volume of 286 pages and the explanatory report is a much larger volume, running to no less than 540 pages. Some idea of the magnitude of the task the Committee had to undertake may be gathered from the fact that the existing Income Tax legislation consists of nearly 800 distinct provisions embodied in 19 different Acts of Parliament, many of the provisions extending over several pages of the Statute Book, in addition to which a vast body of case law had to be considered with conflicting judicial opinion in many of the decisions. There had also to be taken into account the departmental practice of the Inland Revenue which has evolved numerous administrative expedients to deal with cases for which there is no legal provision, or where the law is obscure or ambiguous. While the Income Tax Act of 1918 brought together and arranged in a single Statute the material contained in 52 previous Acts, the report states that it did little to eliminate overlapping or inconsistent provisions and practically nothing to bring the law into accord with modern conditions. The Committee accordingly decided that their only course was to frame a general scheme of re-arrangement of the whole existing statutory material and to draft clauses, embodying the existing law, to fit into this general scheme. In doing so it was found that many of the statutory provisions were framed in language so intricate and obscure as to be " frankly unintelligible."

In carrying out the plan of the Bill the whole apparatus of schedules, cases and rules has been swept away and all the provisions on each topic have been gathered together from their present scattered sources and embodied in their appropriate clauses in the Bill. In Clause 3 a table is given showing under 15 heads (Classes A to O) a complete classification of all the various kinds of income which are taxable. These classes are grouped under " United Kingdom Income" and " Foreign Income," and the provisions relating to them constitute Part I of the Bill. Part II is concerned with the persons who are chargeable with Tax, Part III with general reliefs, Part IV with exemptions, and Part V with Sur-tax. The remainder of the Bill deals with special matters including the procedure regarding returns, assessments, penalties, &c., and sets forth the provisions applicable specially to Scotland and Northern Ireland.

The greatest departure from existing law which the Committee have ventured to recommend relates to the statutory allowance in respect of wear and tear of plant and machinery. It is recommended that this allowance instead of being deducted from the statutory income of the year of charge in which the wear and tear takes place, should be treated as one of the allowable deductions in computing the statutory profits for the year of computation in which the wear and tear takes place. The reason given for this recommendation is that it is anomalous to compute profits for assessment by reference to one period and the diminution in the value of plant and machinery by reference to an entirely different period.

In Clause 6 of the Bill the Committee have attempted to frame a set of rules for determining whether an individual is to be treated as resident in the United Kingdom or not. These rules are based on the statement issued by the Board of Inland Revenue for the guidance of visitors, the Committee being of opinion that the Inland Revenue statement is in conformity with judicial pronouncements on the subject.

The fourth of these rules, however (Clause 6 (1) (*d*)) is more rigid and definite than the corresponding provision in the Board's statement, but the Committee have felt that the visitor is entitled to know, with as much precision as possible, what degree of residence will subject him to liability to tax in this country. The provision referred to is as follows :—

> An individual shall be treated as being resident in the United Kingdom in a year of charge if he, having within the four years preceding the year of charge been in the United Kingdom for a period of, or for periods amounting in all to, 365 days or more, is in the United Kingdom for any time in the year of charge, otherwise than on an occasional or casual visit.

A large part of the report takes the form of appendices, Appendix I being an elaborate detailed commentary (extending to more than 300 pages) on the various clauses of the draft Bill, while Appendix II contains tables comparing the existing Statutes with the provisions of the Bill. The report represents an exhaustive examination of the whole field of Income Tax law by a body of experts of the highest standing, and thus constitutes a valuable commentary on the existing law, which cannot fail to be of special interest to everyone concerned with the machinery of taxation.

The Bill is not likely to become law for some time and will no doubt undergo considerable modification before it is placed on the Statute Book. In fact, Mr. Chamberlain has stated that it will be necessary for the proposals contained in the Bill to be carefully examined from the point of view of the Exchequer. He has also undertaken to give consideration to any recommendations which important representative bodies may wish to make on the proposals of the Committee, and has expressed the hope that the bodies concerned will lose no time in examining the report and submitting their recommendations.

VALUATION OF SHARES IN A PRIVATE COMPANY.

A FURTHER victory for the Crown has been recorded by the House of Lords in the two cases of *Inland Revenue Commissioners* v. *Crossman*; and *the Same* v. *Paulin*. In each case the Court was called upon to determine the value, for purposes of estate duty, of shares in a private company. These shares were of a nominal value of £100 each. The company had, however, made extremely large profits which were likely to continue unabated, and it was generally admitted that were the shares sold in the open market buyers would be ready to offer four or five times their nominal value.

Section 7 of the Finance Act, 1894, provides that the value of property which is subject to estate duty shall be estimated to be "the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market at the time of the death of the deceased"; and relying upon this section the Commissioners assessed the value of the shares at £475 each. In the Articles of Association of the company, however, there was a clause which stipulated that no holder of the shares could transfer them unless he first offered them for sale to existing members at a price prescribed by the Articles. This price at the date of the death worked out at approximately £220 a share. In these circumstances the Courts which had to deal with the case were faced with this dilemma. The Finance Act, 1894, required the open market price to be ascertained. The Articles gave a right of pre-emption to existing members at a fixed price. Any person who might buy in the open market would take subject to that right of pre-emption. Was it, therefore, possible that the open market price could be greater than the price at which existing members were entitled to buy ?

In the Court of first instance Mr. Justice Finlay held that he was bound by earlier decisions, and that the value of the shares must be fixed at the price which they would fetch if sold in the open market on terms that the purchaser would be entitled to be registered as holder of the shares and hold them subject to the terms of the Articles. On that footing he valued the shares at £350.

The Court of Appeal by a majority verdict reversed this decision, and held that the value of the shares at the date of death could not be greater than the sum for which the holder was bound to sell to existing members; but the House of Lords has restored the verdict of Mr. Justice Finlay, though two of the five members of the Court dissented.

In delivering judgment the Lord Chancellor drew attention to the principle that estate duty is not a tax on the interest of a deceased person, but on the property which passes on his death. Where, for instance, a life tenant dies, although his interest ceases on his death, the property which passes is subject to estate duty. In this case the property passing was the shares notwithstanding that the right to transfer was restricted and a right of pre-emption given to other members of the company. The right to receive the price fixed by the Articles was one

of the elements which went to make the shares: but it was not the only element. In addition to that right the ownership of the shares gave a number of other valuable rights, all of which passed on the death of the holder. Having arrived at this conclusion the Lord Chancellor then proceeded to point out that, though the price fixed by the Articles is not the market price of the shares, in arriving at the market price the restrictive clauses in the Articles are not to be ignored.

The decision seems to amount, in short, to this. The price the shares would fetch if sold in the open market must be ascertained. It must be assumed that the purchaser would be entitled to be registered as a holder of the shares. But in determining what price would be realised in such circumstances the fact that there are restrictive clauses in the Articles must be taken into account. This was the decision of the Court of first instance and of three members of the House of Lords; and it was on this basis that Mr. Justice Finlay valued the shares at £350 each. It seems, therefore, that clauses in Articles giving a right of pre-emption to existing members are not altogether worthless, since they are to be taken into consideration in arriving at the market value of the shares.

Society of Incorporated Accountants and Auditors.

MEMBERSHIP

The following additions to and promotions in the Membership of the Society have been completed since our last issue:—

ASSOCIATES TO FELLOWS.

COZENS, LESLIE JACK (Cooper, Cozens & Co.), 8, East Stockwell Street, Colchester, Practising Accountant.

EMMERSON, RONALD FRED, 38, Baldwin Street, Bristol, Practising Accountant.

ROXBURGH, JAMES MURDOCH (James M. Brodie & Co.), 73, Princes Street, Port Glasgow, Practising Accountant.

WATKINS, GARFIELD ATTWOOD (F. Jennings & Co.), Borough Chambers, Neath, Practising Accountant.

ASSOCIATES.

ALBURY, ROY DAVID JAMES, with McCanlis & Mapstone, 32, Shaftesbury Avenue, Piccadilly Circus, London, W.1.

BREWSTER, SYDNEY PENTELOW, formerly with Kilby & Fox, Drury Chambers, Market Square, Northampton.

GUHA, SANJIB CHANDSA, B.Sc., LL.B., formerly with Fellows, Crabb & Co., Foster Lane, London, E.6.

LAWRENCE, BARRINGTON SYDNEY, with Spence, Paynter & Morris, 6, Wardrobe Place, Doctors Commons, London, E.C.4.

RICHARDS, JACK MEADOWCROFT, A.C.A., 3, Heathfield Avenue, Ashgate, Chesterfield, Practising Accountant.

TILBY, EDWARD JAMES, with Chantrey, Button & Co., Africa House, Kingsway, London, W.C.2.

UPSDELL, LENNOX CECIL, with D. Cavill, Evans & Co., 69, Basinghall Street, London, E.C.2.

THE BUDGET.

THE CHANCELLOR'S SPEECH.

The following is the text of Mr. Chamberlain's speech in introducing the Budget in so far as it relates to matters which are of more particular interest to the accountancy profession:—

I can summarise the expenditure for 1936, including Supplementary Estimates but omitting the self-balancing items, as follows:—

	£
Fixed Debt Charge	224,000,000
Other Consolidated Fund Services	11,300,000
Supply Services	562,597,000
Total	£797,897,000

REVENUE, 1936-37.

Let me now come to my estimate of the revenue for 1936 on the existing basis of taxation. I start with Customs and Excise. I have already drawn attention to the considerable expansion in the yield of Customs last year and provided that no untoward events occur which might check the purchasing power of the community, I anticipate that the new year will show, again, a considerable upward movement in the revenue from Customs and Excise which is peculiarly sensitive to changes in the spending disposition of the public. Accordingly, I am budgeting for increases and in many cases substantial increases in nearly all the items. To mention some of the larger figures, I expect increases in the Beer Duty of £1,900,000; in tobacco of more than £3,000,000; oil, nearly £3,000,000; silk, £400,000; duties under the Import Duties Act £1,400,000, and in the Ottawa Duties, £500,000. I expect only a small rise of £100,000 in the yield of the Sugar Duty, but that is because the effect of the sugar preferences is becoming increasingly costly to the Exchequer. By way of exception to the general rule, I expect to receive from Entertainments Duty £400,000 less than last year, and a similar amount less from the Special Duties on the products of the Irish Free State. The reason for the lower expectation from Entertainments Duty is because, this year, we shall have the full effect of the remission of the duty last year, which only dated from July 1st, 1935, and, in the case of the Irish Free State, the reduction is due to the lowering of the duties on certain animals and meat which took place in connection with the renewal of the coal-cattle agreement last February. Further details will be available, in the White Paper, to hon. Members when I sit down. The total estimate from Customs and Excise on the existing basis of taxation is £314,000,000 or an excess of £10,500,000 over the actual revenue received in 1935.

From Inland Revenue, at any rate from certain items of it, I expect also to obtain substantial increases. I take income tax at £248,000,000. That is £10,000,000 over the yield of 1935. Hon. Members must recollect that this year has to bear the full cost of the reliefs granted last year and, if you take like for like, my estimate really represents an excess of

£15,000,000 over the yield for last year. That is a pretty big increase, but I put it forward with some confidence that it will prove to be correct because it is founded upon information collected from a number of concerns which have been good enough to furnish me with forecasts of their trading results for 1935 and that, of course, is the basis for the assessment of income tax under Schedule D for 1936. In estimating that I shall get £54,500,000 from surtax I am allowing for a growth this year of £3,500,000. It will be recollected that there was no growth last year. But hon. Members know that surtax lags a year behind income tax, and in fact this year is the first year in which the receipts of surtax should reflect the improvement in trade.

Death Duties, as I have already said, gave us a very high yield in 1935, but as there is no reason to anticipate any serious alteration in the high level of security values, counting on that high yield of 1935 I expect that it will be maintained in 1936. Accordingly I have put down £89,000,000 for Death Duties. The Stamp Duties have been rapidly recovering. The yield in 1935 was £25,800,000, which was a growth of no less than £1,750,000 over the year before; and as the steady expansion of business and improvement of trade is continuing, I think that the Stamp Duties, especially in view of the growth of Stock Exchange transactions, should give me a yield in 1936 of £27,000,000. The other Inland Revenue Duties I have put down at £1,500,000, and, adding together all the various items which I have enumerated, I get a total for Inland Revenue of £420,000,000.

I put the Exchequer share of Motor Vehicle Duties at the same figure as last year, £5,000,000. Crown Lands revenue is £1,350,000. The Committee are aware that His Majesty, in his Gracious Message of March 11th, following the example of his predecessors, placed these revenues at the disposal of the House of Commons. Therefore, it is proper that I should take them into account now, although there has not yet been time to complete the arrangements by granting to His Majesty a suitable Civil List. Sundry loans I estimate at £5,000,000, and miscellaneous revenue at £20,000,000.

I must say a word or two about the Post Office contribution to the Exchequer. The Post Office Fund has now existed for three years, and in accordance with the Finance Act of 1933 it becomes necessary to review the fixed contribution which under section 34 of that Act was determined to be £10,750,000 for the first three years. For some time past the subject of the relations between the Exchequer and the Post Office has been under consideration by the two Departments. Up to the present we have not been able to accumulate sufficient data to enable us to determine a long-term policy. Accordingly, with the concurrence of my right hon. Friend the Postmaster-General, I propose to keep the Post Office contribution for another year at the same figure of £10,750,000. At the end of that time I think it ought to be possible to propose a fresh, and, I should hope, a lasting basis of settlement. Hon. Members are aware that the actual cash sum received by the Exchequer in any particular year by no means always is identical with the fixed contribution. There are services which are rendered by various Departments to the Post Office free of charge, and *vice versa*, and there are various other minor adjustments that have to be made. I am proposing in the Finance Bill a small step which will have the effect of accelerating and simplifying this procedure, and on that basis I estimate that the Exchequer receipts for 1936 will be £11,256,000, while the payment out of the Exchequer to the Post Office Fund will be £600,000.

I can now summarise the total of my revenue from all sources on the present basis of taxation. Customs and Excise stands at £314,000,000; Inland Revenue, £420,000,000; miscellaneous items, £42,606,000; making a total of £776,606,000. I have already given the expenditure as £797,697,000, and I am, therefore, left with a deficit of £21,291,000.

Tax Avoidance.

Those hon. Members who have heard many Budget statements will not be surprised when I say that at this point it is necessary to turn aside from the main course of my story and to deal with certain minor changes in the legislation which controls our taxation, which I shall have to propose in the Finance Bill. In the first place I want to call the attention of the Committee to a practice which is growing very rapidly among the public, of adopting one or more of various methods, all of them completely within the law, of avoiding income tax and super tax. Of course, it is very natural that the higher you raise a tax the greater is the inducement to avoid it if you can. Smuggling becomes worth while just in proportion as the import duty is large enough to create a margin which will offer opportunities to make a profit. Total prohibition may evoke such effective methods of evasion as ultimately to bring about its own complete dissolution. In our direct taxation the burden at the present time is high enough to attract the attention of ingenious minds, and their discoveries and inventions have now proceeded to such a point that it is necessary to ask Parliament to intervene.

In the time which I have at my disposal this afternoon it would not be possible for me to describe in detail all the various ways, no doubt extremely interesting to hon. Members, in which income tax and sur-tax can be avoided. I shall confine myself, therefore, to just sufficient to explain the resolutions which later on I shall have to ask the Committee to pass.

Transfer of Property to Persons Abroad.

The first proposal concerns the avoidance of tax by an individual living in this country who transfers his property to persons abroad in such a way that, while he himself retains control over the property and himself enjoys the income from it, in the light of the income tax law as it stands at present he does not appear to be in receipt of the income. I am going to deal with that by providing that the income arising from property of this kind shall be taken as the measure of tax liability.

ONE-MAN COMPANIES AT HOME.

The second proposal deals with what are known as one-man companies at home. The existing law contains provisions which are expressly designed to deal with avoidance of sur-tax by manipulation of companies of this kind, but these provisions have been found to be defective, and I shall propose, therefore, to strengthen them in such a way that it will be possible to put a stop to certain devices which have been successfully employed for evading sur-tax. As these two proposals I have mentioned both mainly deal with sur-tax, and as the sur-tax which is assessed as payable in the current year is the sur-tax for the year 1935-36, I propose that this legislation shall operate as from that year. The financial effect of these two proposals is expected to give me £2,000,000 in the present year, and in a full year about £4,000,000.

EDUCATIONAL TRUSTS.

There is another practice which concerns both income tax and sur-tax, to which I must draw the attention of the Committee. There has been a very rapid growth, especially recently, in a form of deed, which is, I believe, known as an educational trust. The procedure is of this kind: A parent signs a deed giving part of his income to his child. In his capacity as guardian of the child he receives that income from himself. He applies it to the maintenance and the education of his child. Of course, he is not doing anything more for the child than he would do anyhow, but by just signing that deed he relieves himself of the liability to income tax on that part of his income. The knowledge of that device is becoming exceedingly widespread. The other day I came across a printed document which I am told is being issued wholesale all over the country and which gives the most careful directions as to how income tax may be avoided by this method. It says, for instance:—

"In our opinion you would meet technical requirements if you draw a cheque payable to Deed of Covenant or Bearer, and pay it into your own Bank Account as if it were a dividend Warrant. This constitutes a desirable contra entry in your Bank Book, but does not involve an out-of-pocket transaction."

It concludes by saying:—

"Your friends will thank you for an introduction to our scheme, and I should be happy to send you a cheque for 10s. 6d. in respect of any new client introduced."

It is easy to see what is happening. A householder in one of our suburbs receives this document one morning at breakfast and, seeing that it is about income tax, of course he reads it with interest, and with growing delight, as he finds that, with perfect safety to himself and in strict accordance with the law, he can substantially reduce his liability to income tax. Of course, as soon as he has assimilated this plan, he remembers the precept that you should do to others as you would be done by, and, not despising the half-guinea, he does an act of neighbourly kindness by passing the document over the fence. In due course his neighbour also makes himself acquainted with the plan and earns another 10s. 6d., and before long it has gone right through the street, and there is not a householder in the neighbourhood who has not been introduced to this philanthropic agent who has come to the assistance of the British taxpayer. But there is by no means a monopoly in this business. Agents and canvassers are busy hawking about schemes of this kind on behalf of various companies, and they are making them a means of getting insurance business. I have seen another document left by an insurance agent, which says:—

"We are going to save you money, and the only condition which I wish to make is that you regard this as confidential and apply every penny of the savings for the benefit of yourself, wife, and children on a policy with my company. This would be the only gain I should receive, and as this is my profession I depend upon your word not to divulge the scheme to any other insurance representative."

I would not have the Committee suppose that every transaction by which a man parts with some of his income for the benefit of his child is done for the purpose of avoiding income tax. I have no doubt that there are many cases in which the motive is perfectly proper and even laudable, but the effect is the same. The effect in all cases is that income tax is in fact avoided, and thus there is created a disparity between taxpayers who are otherwise situated in the same circumstances. Whether you ought to ask a man to pay income tax upon that part of his income which he devotes to the education and maintenance of his children is a matter upon which opinions may differ, but I think everybody will agree that all parents ought to be treated alike in this matter, and that it is extremely unfair that, while some are obtaining relief in this way, others, either because they have scruples about employing methods of this kind or because they simply do not happen to know how to apply them, are not only getting no such relief themselves, but are actually having to pay more than their fair share of taxation in order to fill up the gap in the revenue.

I propose to provide that the income tax liability of parents shall not be affected by these educational trusts, and the legislation will take the form of saying that the income of an infant and unmarried child which is in any way derived from the parent shall be aggregated for all purposes of income tax law with the income of the parent. Income, of course, falling to the child arising from other sources, such as earnings, or as a beneficiary of a settlement made upon it by some other person than the parent, will be completely unaffected by the change. I anticipate that in a full year the saving from dealing with these educational trusts will amount to £2,500,000.

Income Tax Allowances.

Last year, it may be remembered, I endeavoured, by making certain improvements in income tax allowances, which were so severely cut in 1931, to bring some relief to the income tax payers with small incomes who are bearing the responsibilities of a family. I should like to carry that process a little farther this year. I think there is still some-

thing owing to those people on that account, and the saving that I am going to secure by dealing with educational trusts gives me an opportunity of taking that money and distributing it equitably among all income tax payers who have children to maintain. Accordingly, I am proposing to increase the statutory allowance for children from £50 per child to £60, at a cost of £1,000,000 this year and £2,000,000 in a full year, thus putting it up to a higher level than it has ever stood at before. Furthermore, in pursuance of the same idea, I am proposing to find the means to raise the general statutory allowance for married persons from £170, to which I raised it last year, up to £180. That will also cost £1,000,000 this year and £2,000,000 in a full year.

AVOIDANCE OF ESTATE DUTY.

I have also a proposal to make relating to the avoidance of Estate Duty. Under the law as it stands at present Estate Duty is not chargeable on personalty abroad where it has been the subject of a gift, of a joint investment, or of a foreign settlement, and I have some reason to suppose that advantage is being taken of that state of things to place property outside the scope of charge. I am proposing, therefore, that personalty abroad shall be treated in the same way as personalty at home, and I have taken the effect of that change into account in my estimate of Death Duties for the year.

SCHEDULE A ON MILLS AND FACTORIES.

In addition to the resolutions which I shall have to submit dealing with the avoidance of taxation, there will also be two resolutions dealing with amendments of income tax law. The only one which I think I need explain now relates to the method of assessing income tax under Schedule A upon mills, factories, and other buildings in which machinery is installed. In the past quinquennium Schedule A assessments have been made upon the same principle which is followed in rating, but there is no express provision of the income tax law as to how you are to compute annual value in the case of machinery installed in buildings, and the courts have lately held that certain machinery which is not taken into account in rating shall be taken into account in computing value for the purposes of income tax. I propose to provide that in future the rating principle shall be followed for the income tax, and therefore my proposal will merely maintain the position as it has been during the past five years.

(The Chancellor of the Exchequer next referred to certain small changes in relation to customs and excise including a duty on imported lager beer calculated to produce an additional income this year of £25,000, and said that the net result of this and the changes in relation to tax avoidance and family allowances was to increase the revenue by £1,025,000, thus reducing the deficit to £20,266,000.)

Road Fund.

In considering how to overcome the difficulties arising from the emergency of a demand unprecedented in extent except in wartime, I come up at once against an anomaly in our national financial system. Surely when a Chancellor has to wrestle with a task so formidable as that in front of me, he ought to be able not only to survey the whole field of expenditure, but also all his sources of revenue, so that he can direct them where they are most needed. There is one exception to the general rule which gives him power to do so. The Motor Licence Duties, which now amount to £31,500,000, are out of my control; save for that small share which comes to the Exchequer they pass automatically into the Road Fund. In past years if they have not been sufficient to meet the needs of the Road Fund, the Exchequer has had to lend the balance. At other times, when they have been more than sufficient and surpluses have piled up, steps have been taken to sweep them into the Exchequer.

I have no intention of making any alterations in the functions of the Road Fund, nor have I changed my attitude to those road problems which my right hon. Friend the Minister of Transport has been attacking with so much courage and success. Nor do I propose in any way to curtail the five-year road programme to which the Government has set its hand. But I have represented to my right hon. Friend that this system of feeding the Road Fund by the varying produce of duties specifically assigned to it is an irregularity which ought to be corrected and replaced by the more normal method of allowing the House of Commons to assess its needs each year and to satisfy those needs by votes. I am proposing to make that change by legislation in the Finance Bill, but owing to technical reasons it cannot be made effective until next year; but in view of the alteration in procedure, and as I am assured that the current revenue of the fund is ample for its current needs, I am proposing to abstract for the benefit of the taxpayer the £5,250,000 which at the outset of this financial year stood to the credit of the fund.

Income Tax.

That reduces to £15,000,000 the amount which I have to find by new taxation. As the restoration of our defences is in the interests of all, it is only right and fair that all should contribute towards it. I propose an increase in the standard rate of income tax of 3d. in the pound, which I estimate will give me this year £12,000,000.

Tea Duty.

I propose, also, to raise the duty on tea by 2d. a pound. That increase in the tea duty, which will operate as from to-morrow, will apply both to Empire and to foreign tea, thus preserving the existing preferential margin of 2d. a pound. I anticipate that the increased duty will give me this year £3,500,000.

Final Balance Sheet.

I can, therefore, now strike the final balance sheet. The revenue will be £798,381,000, the expenditure £797,897,000, leaving a prospective surplus of £484,000. When I consider the magnitude of the effort which Parliament has decided is necessary in order to rebuild our defence forces, involving an expenditure on defence this year of more than £50,000,000 in excess of what was provided in the

Budget of last year, I cannot think the new taxation which I have proposed will be considered unreasonable, nor do I think that it will seriously affect the improvement in trade and industry, nor that it will cause any undue hardship. The fact that we should be able to meet so large an increase in expenditure with so moderate an addition to our taxation is the best testimony we can have to the immense improvement in the financial and economic condition of the country during recent years.

This is the fifth time in succession that I have presented a financial statement to the Committee, and perhaps, therefore, I may be pardoned if for a moment I look back and consider some of the changes that have taken place since I opened my first Budget in April, 1932. I do not claim that the financial policy I have followed has been solely responsible for the results which I shall quote, but I do believe that it has been the indispensable foundation upon which those results have been erected, and that it remains the best policy for the country and for the needs of the present time. The two main pillars of the policy have been the introduction of the tariff and the establishment of cheap money. The Committee will remember that when the tariff was established we had an adverse balance of payments of no less than £104,000,000 a year. The tariff has now converted that into a favourable balance of £37,000,000. Moreover, it has brought us a revenue which now amounts to £34,000,000 a year, and by this means a valuable contribution to our national expenditure has been made without causing any perceptible rise in the cost of commodities to the consumer.

The reduction of interest rates by something like 2 per cent. has meant a permanent saving in Budget charges of upwards of £40,000,000 a year, and a still larger temporary reduction. The benefits of cheap money have been extended to the Dominions, who are our best customers, to the local authorities, and to industry, which is now progressively reaping the advantage of lower interest rates and is daily expanding its enterprise. The building of 1,250,000 houses during this period, an astonishing feat, has been achieved largely in consequence of the cheapness of money.

Between them these two powerful financial engines have strengthened and developed both our industry and our agriculture, so that our agricultural output has increased by 14 per cent. and our industrial output by no less than 29 per cent. Our exports of manufactured goods have increased by more than £50,000,000. The number of persons in employment has increased by more than 1,250,000. The percentage of unemployment has fallen from 22.4 to 14.4. Retail trade is now more active than it has been for many years, and the record figures of holiday traffic show how the increase of purchasing power has spread through all sections of the people. Although wholesale prices in general have risen by 10 per cent., and the prices of primary commodities by upwards of 45 per cent., the cost of living to-day is actually slightly below what it was in 1932. Notes in circulation have increased by £50,000,000, and the deposits in the savings banks alone have gone up by no less than £150,000,000.

The recovery of the country has been reflected in the rapid expansion of the revenue. Nearly £70,000,000 has been applied to the reduction of the National Debt out of savings in fixed debt charges and out of Budget surpluses. Increased expenditure on social services has been rendered possible. Take four major items: old age and widows' pensions, health insurance, housing and education. In 1932 we spent upon those four services a little less than £121,500,000, and in this year's Estimates we are providing for the same services nearly £138,000,000. Lastly, the present aggregate value of the tax remissions which were made in the various Budgets of 1932 to 1935 amounts to £50,000,000 a year. At the outset of this new financial year, the prospects, apart from the complications of the international situation, appear to promise a full continuance of this tide of returning prosperity.

I had hoped, and until quite recently I had had good reason to hope, that in this fifth Budget it might have been possible for me to reward the taxpayer for his long and patient endurance of his burdens by giving him a greater relief than anything which up to now I have been able to afford. That that hope should have to be deferred and that instead I should have to ask of him new sacrifices, moderate though they may be, has been a bitter disappointment to me as well as to the country. But no man hesitates to set his fire-fighting appliances in readiness when already he can feel the heat of the flames on his face. Our safety is more to us than our comfort, and I think the country which has applauded and approved the precautions we are taking will not grudge us the means of bringing them about in the shortest space of time that we can compass.

Financial Resolutions.

Following upon the Chancellor's Budget Speech the following amongst other resolutions relating to Income Tax were passed by the House of Commons :—

PREVENTION OF AVOIDANCE OF INCOME TAX BY TRANSFER OF INCOME ABROAD.

Resolved, That—

(*a*) where any individual has by means of any transfer of assets, either alone or in conjunction with associated operations within the meaning of any enactment for giving effect to this resolution, acquired any rights by virtue of which he has (within the meaning of the said enactment) power to enjoy, whether forthwith or in the future, any income of a person resident or domiciled out of the United Kingdom, that income shall, whether it would or would not have been otherwise chargeable to income tax, be deemed to be the income of that individual for all the purposes of the Income Tax Acts ;

(*b*) for the purpose of this resolution references to an individual shall include the wife or husband of the individual, and references to income of a person resident or domiciled out of the United Kingdom shall include income apportioned to such a person under section twenty-one of the Finance Act, 1922, as amended by any subsequent enactment ;

(*c*) there may be included in any Act of the present session relating to finance such provision as to income

tax in relation to any such transfer of assets or associated operations (being provisions which it is necessary or expedient to include for the purpose of giving effect to or supplementing the foregoing provisions of this resolution) as Parliament may determine;

(*d*) the provisions of this resolution and the provisions included in any such Act as aforesaid shall apply for the purposes of assessment to income tax for the year 1935-36 and subsequent years, and shall apply in relation to transfers of assets and associated operations whether carried out before or after the date of this resolution.

SETTLEMENTS ON CHILDREN.

Resolved,

"That there may be included in any Act of the present session relating to finance such provisions as to income tax as Parliament may determine in relation to settlements, dispositions, trusts, covenants, agreements, arrangements and transfers of assets made or entered into directly or indirectly, whether before or after the date of this resolution, by any person in favour of any of his children (including stepchildren, adopted children and illegitimate children)."

ORDINARY REVENUE AND EXPENDITURE, 1936-37.

ESTIMATED REVENUE.

	£	£
Inland Revenue—		
Income Tax	259,000,000	
Sur-tax	56,500,000	
Estate Duties	89,000,000	
Stamps	27,000,000	
Excess Profits Duty, Corporation Profits Tax	750,000	
Land Tax, &c.	750,000	
Total Inland Revenue		433,000,000
Customs and Excise—		
Customs	207,525,000	
Excise	110,000,000	
Total Customs and Excise		317,525,000
Motor Vehicle Duties—		
Exchequer Share		5,000,000
TOTAL RECEIPTS FROM TAXES		755,525,000
Post Office net receipt		11,256,000
Crown Lands		1,350,000
Receipt from Sundry Loans due to British Government		5,000,000
Miscellaneous (including £5,250,000 from Road Fund)		25,250,000
TOTAL REVENUE		798,381,000

ESTIMATED EXPENDITURE.

	£	£	£
Interest and Management of National Debt			224,000,000
Payments to Northern Ireland Exchequer (including net share of reserved taxes)			7,500,000
Miscellaneous Consolidated Fund Services			3,200,000
Post Office Fund			600,000
Total			235,300,000
Supply Services—			
Defence Excluding Pensions— Army, Navy, Air Force	40,864,000 + 60,205,000 + 38,556,000	139,625,000	
Pensions— Army, Navy, Air Force	8,457,000 + 9,725,000 + 444,000	18,626,000	
Civil—			
I. Central Government and Finance	2,146,000		
II. Foreign and Imperial	9,400,000		
III. Home Department, Law and Justice	18,362,000		
IV. Education	58,045,000		
V. Health, Labour, Insurance (including Old Age and Widows Pensions)	162,725,000		
VI. Trade and Industry	15,837,000		
VII. Works, Stationery, &c.	8,552,000		
VIII. War Pensions and Civil Pensions	44,988,000		
IX. Exchequer Contributions to Local Revenues	45,199,000	365,254,000	
Margin for Supplementary Estimates—			
Defence	20,000,000		
Civil	5,600,000	25,600,000	
Tax Collection— Customs and Excise and Inland Revenue Votes (including Pensions, £1,084,000)		13,492,000	
			562,597,000
TOTAL EXPENDITURE			797,897,000
Surplus			484,000
			798,381,000

Australasian Congress on Accounting.

The Australasian Congress on Accounting, sponsored by the Institute of Chartered Accountants in Australia, the Commonwealth Institute of Accountants, and the Federal Institute of Accountants, was held in Melbourne from Monday, March 16th, to Friday, March 20th.

The Society of Incorporated Accountants and Auditors was represented by Mr. A. S. Baillieu and Mr. G. S. Anderson (President and Honorary Secretary of the Victorian Division of the Society).

The proceedings of the Congress began with a civic reception by the Lord Mayor of Melbourne (Councillor A. G. Wales) after the delegates had viewed an exhibition of modern accounting machines at Centenary Hall, opened by Sir George Mason Allard, the President of the Congress. The LORD MAYOR, in welcoming the 675 delegates, said that the profession had given valuable service throughout the depression and in times of greater prosperity.

Sir GEORGE MASON ALLARD (President of the Congress), responding, said that the purpose of the Congress was to exchange views on their problems and to learn the latest methods of commercial and financial accounting.

A members' luncheon followed in the Masonic Hall.

Messages of Greeting and President's Welcome.

The PRESIDENT said that messages of greeting had been received from all parts of the world, including London, the United States, Holland and France. He had received from the Society of Incorporated Accountants and Auditors in London the following cablegram :—

> President and Council Society Incorporated Accountants and Auditors, England, send greetings to members of accountancy profession in Australia. Sincere good wishes success Australasian Congress and progress profession in Australia.

He also read messages from the President and Vice-President of the New Zealand Society of Accountants. He was delighted to extend, on behalf of the executive and members of the Congress, a welcome to the visiting members. The assembly was a notable one—the first of its kind in the Commonwealth—and he complimented those who first suggested it and those who had brought it about. Several papers were to be read which should be of great value. There was none who could say that he knew all there was to be known about the business of an accountant. There was a great bond of kinship in such a Congress, in view of the differences in State and Dominion laws on companies, taxation, industrial law and regulations, executors and trustees, registrations and licences. Accountants, by the very nature of their profession, must be close observers. Thus it was that the accountant became so frequently the consultant of those who conducted large businesses and enterprises, even on matters which went far beyond the accountancy aspect of the business. So that it might be truly said that an accountant became also a man of account. On behalf of the executive and committee of the Congress and himself, he gave them all a hearty welcome.

Congratulations from Representatives of Visiting Bodies.

Mr. G. W. REID, on behalf of the New Zealand Society, said that the New Zealand delegation was extremely small, but it hoped to learn. It was a great privilege to speak for his country at what would be the most outstanding gathering of accountants ever held in the southern hemisphere.

Mr. W. E. SAVAGE, on behalf of the visiting members of the Institute of Chartered Accountants in Australia, said that those who were unable to be present would soon be discussing the papers and proceedings of the Congress. The accountancy profession stood for what was reliable and solid. There was no limit to its extension. The world would be better in proportion to the standards and strength of the profession and the honesty of accountants generally.

Mr. G. SUNTER, on behalf of the visiting members of the Federal Institute of Accountants, said that they met as accountants to advance the profession and educate themselves in it.

Mr. H. J. TRIST, on behalf of the visiting members of the Commonwealth Institute of Accountants, said that the Congress would do much to break down any feelings of antagonism between States. He hoped that the Congress would be the great success which it promised to be.

Mr. G. S. ANDERSON, on behalf of the Society of Incorporated Accountants and Auditors, said that the President and Council of the Society were most appreciative of the invitation extended to them to participate in the Congress. The Council extended the greetings of some 6,700 Incorporated Accountants in Great Britain, Ireland, the British Dominions and foreign countries. The Society was founded in 1885 and it celebrated its 50th anniversary in April, 1935. It had the pleasure of receiving the representative of the profession in Australia, Mr. George Lormer, from the Commonwealth Institute of Accountants, who conveyed to the Society the greetings of the accountancy profession in Australia. The Council of the Society desired to extend its cordial wishes and greetings to the President and those participating in the Congress.

Mr. M. V. ANDERSON, on behalf of the English Institute of Cost and Works Accountants, said that his Institute was indeed grateful to be able to respond to the reception. It was obvious from the papers distributed that the leaders of thought in the accountancy profession in Australia did not lag behind their confrères on the other side of the world either in the breadth of matter treated or in the liberality of their thought. It was within his personal knowledge that systems on standard costs were successfully operated in Australia ten years ago, when text books had barely approached the subject as being extra-

ordinarily novel. The sponsoring bodies of the Congress were among the institutions which assisted to found the Faculty of Commerce at the University of Melbourne, which had exercised a profound influence on both governmental and private business finance, and those beneficial results had very largely flowed from the skill, ability and knowledge of distinguished members of the accountancy organisations.

The remainder of the day was occupied by the laying of a wreath on the Shrine of Remembrance, a reception by the President and Vice-Presidents (Mr. H. P. Ogilvie and Mr. A. L. Prendergast) and private entertainments.

The forenoon of March 17th was devoted to the reading of Papers on accountancy subjects (as recorded at the end of this report) and in the afternoon there was a garden party.

The Banquet.

In the evening a banquet was held at Monzies Hotel, with the President in the chair.

SIR JOHN G. LATHAM (Chief Justice of the High Court of Australia) proposed the toast of "The Congress." He said that those who, not being accountants, had had anything to do with them had long known that they were a highly intelligent branch of the community. When one thought of accountants, one thought of figures and numbers. For a good many years he was a lecturer in philosophy at the University of Melbourne, and among the philosophers on whom he had to lecture was Pythagoras, discoverer of the science of numbers. He developed a theory of life and of the world based upon harmony and proportion and upon a numerical view of the universe. This theory had for many years exercised a great influence on the ancient world, but his philosophy tended to split into differing dogmas. He believed that things were numbers, just as accountants believed that a business was a profit and loss account and a balance sheet. So, in 500 B.C., there were three institutes of Pythagoreans who had not been able to reconcile their differences. He was glad that the accountants of Australia had been wiser than the Pythagoreans and that he saw there so many united in an appreciation of the reality and importance of their profession. He supposed the profession of accountancy was the apotheosis of numbers, but the physicists had reduced all quantities to numbers, and Einstein viewed the whole universe from the point of view of a mathematician, while the economists had taught us to believe that there was nothing real which could not be regarded quantitatively. In fact, the view of many in the world was that, unless you could represent facts in columns of statistics, the facts could scarcely be said to exist. The difficulty with human beings was that they would not remain static for the experiments of either economists or accountants. He had heard of their exhibition of office machinery. He had some mechanical inventions of his own for office work which he was developing privately. He was aware that there was a silent typewriter and also an electrical typewriter, but when he had time he would invent an invisible typewriter, to save office space. He saw that there were adding machines which were remarkably efficient, but he wanted a typewriter which could spell. The accountant was becoming more and more important, not only in the business of individuals but in the affairs of the community. A man might think that his business was doing very well, but if he had a really good accountant he might know he was not really paying his way. If people realised the importance of a depreciation account, and the real difference between spending income and spending capital, it would make a tremendous difference in the health and the soundness of the business of the community. It was a good thing for the community that accountants were organising as a profession, that they owed a duty to the community, that they were not simply engaged in a form of livelihood designed to obtain the maximum amount of money for themselves in the minimum time. When one realised accountants' responsibilities to-day, when one realised that they had to understand—incredible as it might seem—the taxation laws of the Commonwealth of Australia, one must recognise that accountants must be men not only of intelligence but also of character, independence, integrity and judgment. He had the greatest pleasure in proposing the toast of the Australasian Congress on Accounting. (Cheers.)

Sir JAMES BARRETT (Chancellor of the University of Melbourne), in supporting the toast, said that the gathering had considerable interest to him because, in the Bachelor of Commerce course and the Diploma in Commerce Course, accountancy was an important subject. Accountancy (Part 1) was compulsory. The Commerce Course began at the University in 1925, the dean being Professor Copland. In planning the course, the Institutes of Accountants were represented on the Faculty, and leading members, themselves practising accountants, conducted the classes and examined the students. The University would watch with interest the continued efforts of the Institutes to raise the standing of the profession and improve the education of accountants, and would co-operate in it. It might even be possible, in the not distant future, to contemplate the establishment of a Faculty of Accountancy, conferring separate and specific accountancy degrees, and with a professor of its own. (Applause.)

The PRESIDENT (Sir George M. Allard), in responding to the toast, said that accountants, as observers, were keen watchers of Government policies which operated, or were supposed to operate, for the development of the country. His own personal view was that at present the most important matter in the interests of Australia was defence. A very small number of people were in possession of their widespread island continent. Australia must consequently rely, in great measure, on the prompt and ready assistance of Great Britain. They were all members of one great family, but if Australia were to rely on family associations she must ask herself whether everything possible to maintain the best family relationships was being done. Many accountants who had to handle matters connected with

deceased persons' estates, had noticed how frequently jealousies, animosities and enmities had arisen between the branches of a family. There were reports of negotiations between the Commonwealth and some foreign country regarding special trading terms. They must ask themselves whether those negotiations were being carried on upon such lines that they would not result detrimentally to Britain. He believed that the Commonwealth Government had this aspect well in mind, and it was their duty to support the Government strongly, laying it down as a first essential that Great Britain should not be harmed. Australia's aim should be the Empire first, in trade, finance and defence. He would deprecate any undue criticism of the expense incurred in sending Australian representatives to visit other parts of the world, and particularly Great Britain. The personal touch was most valuable and educative both to the visitor and the visited. Another matter worthy of notice was the opportunity of developing a tourist trade from Britain and America and encouraging important British business men to come to Australia. There was too much irritation caused to temporary visitors by the taxation laws. A visitor to Great Britain, whether for pleasure or business, might remain there for six months without being troubled over taxation, but travellers and visitors to Australia were subjected to considerable irritation. The taxation officials had to act as the law required, but it would be of great advantage if latitude similar to that of Great Britain were allowed. What might be lost on the swings of taxation would be more than made up on the roundabouts of income from tourists and other visitors. The great and essential need for Australia was increased population. An increased population meant increased wealth, which could arise only from private enterprise. Increasing taxation dulled the rewards of private enterprise and in many cases obliterated them. Increasing Government loans, in the main, were spent on non-productive works, and the interest on these meant increasing taxation. Consequently, Government loans should be raised only for truly productive works, or in cases of utmost necessity. Government spending alone could not bring about the return of prosperity. Private enterprise must do that. In 1929 the population was 6,437,000 and in 1935 it was estimated at 6,735,000, an increase of about 4½ per cent. In the same period the increase of all Australian loans was from £1,104,000,000 to £1,242,000,000, an increase of 12½ per cent. Since 1919, the total debt of all the governments of Australia increased by more than 75 per cent. The greatest offenders were the States, whose loan indebtedness had increased by 113 per cent. since 1919. Unless the statesmen in power had broader and longer vision, Australia would arrive at a most dangerous position, operating against and delaying the development which the country so greatly needed. (Applause.)

Mr. W. A. JOLLY (Brisbane) proposed the toast of "The City of Melbourne." If environment had anything to do with the success of a gathering, the success of the Congress was assured. Melbourne had reason to be proud of itself, with its wide thoroughfares, its beautiful parks and gardens and other improvements which had transformed a wilderness of 100 years ago into a great and beautiful city. (Cheers.)

The LORD MAYOR OF MELBOURNE (Councillor A. G. WALES), in responding, said that the appointment of Mr. Jolly as Mayor of Brisbane was probably because he was an accountant of such high standing. Unfortunately, there was not one accountant in the Melbourne City Council. The city of Melbourne had been decreasing its indebtedness for some years, and it was probably to-day as near being debt-free as any other city in the world. The Council was proud of that achievement. If they arranged other conferences there, the city would try to show them again the same hospitality. (Applause.)

Mr. H. J. TRIST (Sydney), proposing the toast of "Commerce and Industry," said that just as commerce was playing an important part in the assistance of industry, accountants were trying to assist both industry and commerce, so that the cohesion which existed between these two great elements should not be unnecessarily disturbed by faulty financial principles. Industry was a dynamic force; it was the power behind cogs and machines, the constructive power of a constructive mind urged by the desire to produce and meet the needs of the community. Commerce was the sales department of industry, the organisation that must prove to the community, and often to the world at large, the faithfulness of industry's production. In doing so, it must itself be faithful, or its integrity would suffer. Shortly, it might be said that faithful production and honest salesmanship were integral features of industry and commerce. The operations of the economic laws which governed them were not limited in either time or space. The results of scientific research were not the exclusive property of any one nation. The British Empire had continuously set its face against undue restrictions on trade and commerce, and it was to-day a wonderful example of what unfettered industry and commerce could achieve. A debt of gratitude was owed to those merchant adventurers who did so much to establish and colonise the British Empire. Australia was a glowing example of British colonisation, with industry and commerce, and not the force of arms, as its foundation. What were they doing to maintain it? One of the greatest problems was that of the social relation between employer and employee. It was necessary to inculcate in the worker a love for honest work and in the employer a desire to study the physical as well as the economic comfort of the people employed. Two great organisations working for this object were the Chamber of Commerce and the Chamber of Manufactures, and he welcomed Sir Robert Knox, president of the Associated Chambers of Commerce, and Mr. M. Eady, deputy-president of the Victorian Chamber of Manufactures. Sir James Barrett's mention of control of accountancy examinations by universities required serious consideration. (Cheers.)

Sir ROBERT KNOX (President, Associated Chambers of Commerce), in responding, said that there was no

possible closer association than between accountants and the Chambers of Commerce of Australia. He desired to express gratitude for the interest which so many members of the profession had taken in the Chamber of Commerce movement. His Chamber had realised that only by unity and close association of business interests was it possible to uplift commerce. He was sure that the accountants' organisation, as it grew in strength and numbers, would play an important part in the affairs of Australia. There was a great opportunity for Governments to co-operate more closely with the interest represented at that banquet. It was the good fortune of his Chamber to have associated with it many leading accountants, and their help in matters such as uniform company legislation, bankruptcy laws, income tax and other forms of taxation was invaluable. He would like to congratulate the President on the success of the Congress. (Applause.)

Mr. M. EADY (Deputy President, Victorian Chamber of Manufactures) said that, on behalf of the manufacturers, he could assure accountants that they were largely responsible for the success or failure of industry to-day. Many small and growing industries, when they put themselves in the hands of accountants, and particularly the cost accountant, were assured of success. His Chamber had always insisted on the absolute necessity of the work of the accountant in industry. He hoped that, as years went on, the link between industry and accountancy would grow stronger. (Cheers.)

Mr. A. L. PRENDERGAST (Vice-President), proposing the toast of "The Guests," said he had found that, in 4002 B.C., the King of Ethiopia visited the Queen of Egypt. He brought with him a large array of wild and woolly warriors, but she thought that the best way to entertain him was at a banquet. She called on the then president of the Federal Institute of Accountants of Egypt to propose the toast of the guests, but he unfortunately uttered some home truths about the King of Ethiopia and was shot at dawn. That illustrated the difficulty with which accountants were faced in carrying out the high principles of their profession, and the extreme lengths to which they were prepared to go rather than violate them. (Laughter.) Accountants, like doctors, were often called in when the patient was ill. Consequently both doctors and accountants sometimes failed to effect a cure, because their advice was not sought early enough. (Applause.)

Sir FREDERICK MANN (Chief Justice of the Supreme Court of Victoria), in responding, confessed that his tastes ran rather to the cup and trencher than to the pursuit of the more esoteric life of budgets and balance sheets. Therefore he would do no more than express warm appreciation at the compliment of having been invited.

Professor D. B. COPLAND (Dean of the Faculty of Commerce, University of Melbourne) said that he stood in fear and trembling. Five years ago the country was in great difficulties and the economists had a field day. Unfortunately they did not consult the accountants and did not reckon on the depreciation of assets which would occur as the country recovered. In the Melbourne University there were courses of accountancy which compared favourably with any in the world. Cost accountancy had now been placed among the subjects.

Mr. G. D. HEALY (Chairman of the Associated Banks of Victoria) said that as a banker he appreciated the value attached to certificates given by licensed auditors and accountants. Bankers liked to feel, when they looked at a balance sheet and saw stocks put down at so much and sundry debtors at so much, that these really represented the position. By their costing methods and in other ways, accountants had saved many businesses.

Mr. F. DERHAM (President of the Law Institute of Victoria) said that solicitors and accountants had much in common, and could be mutually helpful.

Papers Read.

On March 17th a paper on THE AUDITOR'S REPORT read by Mr. H. H. Cummins, F.S.A.A. (Tasmania), was followed by a paper on ACCOUNTING TERMINOLOGY, read by Mr. A. A. FitzGerald (Victoria).

On March 18th, in the Town Hall, a paper was read on THE HISTORY OF THE ACCOUNTANCY PROFESSION AND THE POSITION OF THE ACCOUNTANT IN COMMERCE by Mr. E. V. Nixon, F.S.A.A. (Victoria).

At the Centenary Hall a paper on COST ACCOUNTING was read by Mr. D. J. Nolan (New South Wales).

On March 19th, at the Centenary Hall, Mr. A. E. Barton (N.S.W.) read a paper on PUBLIC FINANCE AND THE FORM AND PRESENTATION OF PUBLIC ACCOUNTS.

A paper on BUDGETARY CONTROL by Mr. L. A. Brumby (Western Australia) was read on his behalf, as he was unable to attend.

The afternoon was devoted to motor trips and the evening to a theatre party, followed by supper and a dance.

On March 20th, at the Centenary Hall, a paper was read on THE RESUMPTION OF PRIVATELY-OWNED PUBLIC UTILITIES by Mr. S. Russell Booth (South Australia).

In the afternoon there were luncheon, sports and afternoon tea, and in the evening a dinner and dance at the Peninsula Country Golf Club, Frankston.

*** *We hope to publish in a later issue some of the Papers read at the Congress.*

Mr. J. Picton James, M.B.E., A.S.A.A., Swansea, has been appointed a Justice of the Peace for the County of Glamorgan.

Mr. W. D. Menzies, F.S.A.A., has been appointed President of the Kingston-on-Thames Chamber of Commerce. For many years he has taken an interest in the work of the Chamber and in 1921 when his father was Honorary Secretary he acted as Assistant Secretary.

Society of Incorporated Accountants and Auditors.

COUNCIL MEETING.

A meeting of the Council of the Society was held at Incorporated Accountants' Hall on April 1st, when there were present :—

Mr. R. Wilson Bartlett, (President) in the chair ; Mr. Walter Holman (Vice-President), Mr. A. Stuart Allen, Mr. C. Percival Barrowcliff, Mr. R. M. Branson, Mr. J. Paterson Brodie, Mr. Henry J. Burgess, Mr. D. E. Campbell, Mr. Arthur Collins, Mr. R. T. Dunlop, Mr. E. Cassleton Elliott, Mr. M. J. Faulks, Sir Thomas Keens, Mr. C. Hewetson Nelson, Mr. James Paterson, Mr. F. A. Prior, Mr. Percy Toothill, Mr. Joseph Turner, Mr. R. T. Warwick, Mr. Richard A. Witty, Mr. Fred Woolley, Mr. A. A. Garrett (Secretary), Mr. E. E. Edwards (Parliamentary Secretary), and Mr. J. R. W. Alexander.

Apologies for non-attendance were received from Mr. W. Norman Bubb, Mr. W. Allison Davies, Mr. F. Holliday, Mr. Edmund Lund, Mr. Henry Morgan, Mr. William Paynter and Mr. A. H. Walkey.

At the opening of the meeting the President referred to the deaths of Mr. Alan Standing, Liverpool, Member of the Council, and Mr. William Henry Payne, London, ex-member of the Council. The Council adopted the following resolutions :—

> That the Council accord to the sisters of the late Mr. Alan Standing their deep and heartfelt sympathy upon the death of their colleague, who had been a member of the Council for 14 years. The Council record their sense of the dignified interest which Mr. Standing brought to bear upon the affairs of the Society both upon the Council in London and among his professional colleagues in Liverpool.
>
> That the Council accord to the family of the late Mr. William Henry Payne their deep and heartfelt sympathy upon the death of their colleague, who had been a member of the Council for 10 years. The Council desire to add to their previous expression of thanks for the valuable services which Mr. Payne had rendered to the Society, their sense of the personal friendship which all the members of the Council entertained for him.

COUNCIL.

The President welcomed to the Council the following members who had recently been appointed to fill occasional vacancies :—Mr. Charles Percival Barrowcliff, Middlesbrough ; Mr. Frederick Arthur Prior, Nottingham ; Mr. Joseph Turner, Manchester.

A letter was read from Mr. E. W. C. Whittaker, J.P., Southampton, resigning his membership of the Council, owing to advancing years. The Council adopted the following resolution :—

> That the Council accept with much regret the resignation of Mr. Edward Watts Catherington Whittaker, who had been a member of the Council since the foundation of the Society in 1885. The Council tender to Mr. Whittaker their cordial and sincere thanks for his long and faithful services to the Socieу and for his devotion to the work of the Society during the whole of his professional career. The Council send to Mr. Whittaker their sincere and personal good wishes.

The Council appointed to an occasional vacancy on the Council under the provisions of Article 48 Mr. Frederick John Alban, C.B.E., Cardiff.

INCORPORATED ACCOUNTANTS' COURSE, CAMBRIDGE, 1936.

The Council received a report of the arrangements for the Incorporated Accountants' Course to be held at Caius College, Cambridge, by kind permission of the Master and Fellows, from the afternoon of Wednesday, July 1st, to the morning of Sunday, July 5th.

It was decided that a communication be despatched during May to members of the Society giving particulars of the Course and of the programme of lectures.

GOLD AND SILVER MEDALS, 1935.

The Council made the following awards in respect of the Examinations held in 1935 :—

Gold Medal.—Mr. Albert Vincent Vincent, Cardiff, who took the First Certificate of Merit at the Final examination in May, 1935.

Silver Medals.—Mr. Eric Edward Bowley, London, who took Second Certificate of Merit at the Final examination in May, 1935 ; Mr. William Arthur Shapland, London, who took First Certificate of Merit at the Final examination in November, 1935.

MIS-USE OF DESIGNATION INCORPORATED ACCOUNTANT.

A report was received that an injunction had been obtained in the Chancery Division of the High Court of Justice against Mr. W. P. Dodds, who had used the designation Incorporated Accountant when he was not a member of the Society.

COMMISSION ON THE ACCOUNTANCY PROFESSION IN SOUTH AFRICA.

The Council received the report of this Commission.

DEATHS.

The Secretary reported the deaths of the following members :—Mr. John Bell (Fellow), Glasgow ; Sir James Alexander Cooper, K.B.E. (Fellow), London ; Mr. John Henry Foxworthy (Associate), Fremantle, Australia ; Mr. Thomas Greenhalgh (Fellow), Blackpool ; Mr. Francis Eric Holloway (Associate), London ; Mr. Charles Lowry (Associate), London ; Mr. Herbert James Mudford (Fellow), Melbourne, Australia ; Mr. William Henry Payne (Fellow), London ; Mr. Charles Fletcher Sanders, J.P., LL.D. (Fellow), Cardiff ; Mr. Alan Standing (Fellow), Liverpool ; Mr. Charles Townsend (Associate), Bingley, Yorks.

RESIGNATIONS.

The Council accepted the resignations of the following members :—Mr. John Gray (Fellow), London ; Mr. Michael Henry Jones (Associate), Cardiff ; Mr. Malcolm James Mackay (Associate), London ; Mr. James Sanderson (Fellow), Gatley, Cheshire ; Mr. Frank Vigis (Associate), Romford.

CHARTERED INSTITUTE OF SECRETARIES.

The Country Conference of the Chartered Institute of Secretaries will be held at Harrogate on May 21st, 22nd and 23rd. The proceedings will include a welcome by the Mayor of Harrogate on May 21st, and a civic reception and dance given by the Mayor and Mayoress on the same evening. The headquarters of the Conference will be at the Hotel Majestic, where the Conference dinner will take place. The business part of the proceedings will include an address by Mr. Ronald Staples on "The Report of the Income Tax Codification Committee," and an address by Mr. George Faber, O.B.E., on "Fixed Trusts." Visits to Fountains Abbey and Harewood House are also included in the programme.

Incorporated Accountants' South Wales and Monmouthshire District Society.

ANNUAL DINNER.

The annual dinner of the Incorporated Accountants' South Wales and Monmouthshire District Society was held at the Park Hotel, Cardiff, on March 27th, under the chairmanship of the PRESIDENT, Mr. Alfred E. Pugh. It was attended by about 200 members and guests, including the Lord Mayor of Cardiff (Alderman G. Fred Evans), the Mayor and Mayoress of Newport (Councillor and Mrs. Wm. Casey), the Mayor of Merthyr (Alderman Lewis Jones), Mr. R. Wilson Bartlett, J.P. (President of the Society of Incorporated Accountants and Auditors) and Mrs. Wilson Bartlett, Sir Richard Redmayne, K.C.B. (Past President of the Institute of Civil Engineers), Sir Reginald Clarry, M.P., Mr. O. Temple Morris, M.P., Alderman Sir Illtyd Thomas, Mr. John Rowland, C.B. (Chairman, Welsh Board of Health), Sir Thomas Allen, Judge L. C. Thomas, Mr. Llewellyn Francis (Registrar of the Cardiff County Court), Mr. Gilbert D. Shepherd (Chairman, National Chamber of Trade), Mr. S. R. Ham (President-Elect, Cardiff Chamber of Commerce), Mr. R. J. Langmaid (Vice-President, Newport Chamber of Commerce), Mr. J. C. Radcliffe (Chairman, Cardiff and Bristol Channel Shipowners' Association), Mr. Sidney Foster (President, West of England District Society of Incorporated Accountants), Mr. G. Glanville Mullens, M.C. (President, Swansea and South West Wales District Society of Incorporated Accountants), Mr. Edward Thomas (President, Cardiff and District Incorporated Law Society), Mr. Eric S. Foden (President, South Wales and Monmouthshire Society of Chartered Accountants), Mr. W. J. Williams, M.A. (Director of Education, Cardiff), Dr. D. W. Oates, M.A., Principal Charles Coles, B.Sc. (Technical College, Cardiff), Mr. A. G. Webb, B.Sc. (Headmaster, Newport Technical College).

Sir RICHARD REDMAYNE, K.C.B., in proposing the toast of "The Society of Incorporated Accountants," spoke of the growth of the Society in the past few years, and said that its membership was now practically 7,000. Amongst its Honorary Members were Sir Malcolm Ramsay, K.C.B., a former Auditor-General, Sir Stephen Killik, a former Lord Mayor of London, and Sir Josiah Stamp. He understood the Society had Branches in Australia, Canada, Ireland, Scotland and South Africa, and 23 District Societies in the United Kingdom and Northern Ireland, of which the third oldest was the South Wales and Monmouthshire District Society, founded in 1894. Sir Richard mentioned the high standard of the Society's examinations and the clarity of vision that an accountant's training produced. There was great need in these strenuous days for men with this clearness of sight, particularly in the coal industry, with which he had been associated for over 52 years. This industry affected South Wales and Monmouthshire more than any other. He sometimes thought people did not realise that this country owed its supremacy in the markets of the world and its position as one of the greatest financial powers to the fact that we had both cheap coal and abundant coal. Despite the falling off in our exports, coal was still the main article of export, and it was still our biggest industry next to agriculture. In passing, he mentioned that many people did not realise that agriculture was still our biggest industry. Owing to a variety of circumstances, our export of coal had fallen from 90 million tons per annum before the War to little over 20 million tons per annum to-day. He felt very strongly that there should be no restriction of output. The whole subject was in the melting pot, and no one could say what would be produced. There was great talk of amalgamations and no one could accuse him of being indifferent to amalgamations as a policy. In fact, the whole of his evidence before the Sankey and Samuel Commissions was in favour of amalgamations; but before any amalgamation was adopted, it should be very thoroughly investigated and proof obtained that it would be to the public interest. It must not increase the cost of production and it must be fair to all parties concerned. He hoped that our legislators would walk cautiously and carefully before they embarked upon any legislation affecting an industry which had been built up by individual effort. Nothing should be done likely to throw away that great heritage. Clear-thinking, wise men were needed, men such as the Society produced, imbued with the idea of accuracy and clear vision. He felt there was a growing disregard for the fundamental law that governed all industry, which was to buy in the cheapest market and sell in the dearest. It might sound crude and cruel, but it was a law of trade. He did not think they were going to benefit the coal industry by raising the price of coal to a fictitious level in order that people might get a living. The end of that would merely be that they would exist by taking in each other's washing. Sir Richard coupled with the toast of the Society of Incorporated Accountants the name of its President, Mr. R. Wilson Bartlett.

Mr. R. WILSON BARTLETT, J.P., in responding to the toast, expressed his appreciation of the way in which Sir Richard Redmayne had referred to the Society. He likewise made reference to the honour which had been done him by his colleagues in electing him as President of the Society of Incorporated Accountants and the particular pleasure that it gave him to be with his fellow members in South Wales. He referred to the loss the Society had sustained by the death of Sir James Martin, who had done more than any other man to place the Society in the position in which it found itself to-day. Mr. Bartlett mentioned that, through the courtesy of the Master and Fellows of Gonville and Caius College, Cambridge, arrangements had again been made to hold a course for young qualified members from July 1st to 4th, 1936, and strongly advised all the young Incorporated Accountants present who desired to attend this Course to make early application, as the accommodation was strictly limited. He referred to the absence of the Secretary of the Society, Mr. A. A. Garrett, who had been detained in London in connection with evidence which the Society had been asked to submit to the Departmental Committee appointed to deal with Fixed Trusts. As professional men the members of the Society had the greatest possible interest in the subject under consideration by this Committee. These Trusts were not subjected to the close scrutiny which was exercised by law over all limited companies. Mr. Bartlett felt that he could not let the opportunity pass of expressing his personal indebtedness to his partners, Col. R. C. L. Thomas and Mr. F. M. Forster, for the help which they had given him to enable him to carry out the very arduous duties connected with the office of President. But for their co-operation it would have been quite impossible for him to undertake the position. Mr. Bartlett also paid tribute to the work done for the Society of Incorporated Accountants in South Wales and Monmouthshire by the Hon.

Secretary of the District Society, Mr. Percy H. Walker, who had been at the helm for so many years.

The President then presented the certificates won by candidates who had gained honours in the Society's examinations. In doing so, he remarked that in the year 1910, in that very room, his friend, Mr. F. J. Alban, C.B.E., received the Gold Medal and First Place Certificate in the Final examination, and he himself the Sixth Place Certificate, at the hands of the late Sir James Martin. It gave him particular pleasure that the First Place Certificate had again been won by a Cardiff student, Mr. A. V. Vincent. Unfortunately Mr. Vincent was not able to be there to receive his certificate. The Fifth Place in the Final examination was won by Mr. Dudley Childs, of Newport, and the Second Place in the Intermediate examination by Mr. W. W. Stanley, of Newport. In presenting their certificates to them Mr. Bartlett expressed the hope that in years to come they might in turn discharge the same happy duty. Mr. Bartlett also presented the prizes won by the successful students in the Prize Essay Schemes organised by the Cardiff and Newport Students :—

CARDIFF.—First prize, Mr. V. G. Fradd ; second prize, Mr. R. B. Evans ; prize for best contribution to discussions, Mr. W. E. Thomas.

NEWPORT.—First prize, Mr. G. A. Hulbert ; second prize, Mr. O. Honywood.

Mr. ALFRED E. PUGH (President of the District Society), in proposing the toast of "The Houses of Parliament," with which he associated the names of Sir Reginald Clarry, M.P., and Mr. O. Temple Morris, M.P., said that if the course of industrial improvement were to be continued, the most urgent need of the world to-day was peace. He greatly regretted that this country, in common with all other nations of the world, was re-arming, as he failed to see how any sane person could believe that re-armament was a guarantee for peace. If, however, re-armament were necessary, he hoped the needs of the special areas would be brought to the notice of the Government. Certain commercial activity was bound to accrue from the orders which would be given and he was convinced that it was important that some part of these orders should come to South Wales. He felt they could rest assured, however, that the representatives of the special areas in Parliament were fully alive to this fact and would do all in their power to see that an adequate share was obtained.

Sir REGINALD CLARRY, M.P., in responding, said that the year 1936 was a fateful year in the history of the British Empire and of the world. One false move might alter the whole orientation of the world. Mr. Pugh had referred to the House of Commons as a safety valve, and had there been similar safety valves in Germany and Italy during the past few months, people would not now be living on the edge of a volcano. There would have been none of this talk of a war which was sweeping across the world like a plague, and they could be sure that the men who had control of affairs in this country would see to it that we were not dragged into a war which might be brought about by the folly of a few men. He would, however, impress upon his listeners that we were bound to honour our treaties, as it was no part of the policy of Great Britain to regard lightly any obligation into which she entered. They could safely leave the destinies of the country in the hands of the men who sat in the House. As for the need of bringing industries into the special areas, they could depend upon it that the Members for South Wales and Monmouthshire were fully alive to the necessity and would see to it that the district received fair and equitable treatment.

Mr. O. TEMPLE MORRIS, M.P., also responded to the toast, and after dealing with the general political situation, spoke of the situation in South Wales and Monmouthshire, and mentioned the work which was being done by the Welsh National Parliamentary Party, a party of Welsh Members from all parties, which was devoting its particular attention to the interests of the special areas. Their work had already borne fruit in the meeting which the Lord Mayor of Cardiff had called in Cardiff the other week when the special problems of the district were freely discussed, with results, he felt, which were bound to be of the utmost value.

Mr. PERCY A. HAYES (Vice-President of the District Society) proposed the toast of "Our Civic Governors," and stated that this country's civic government was recognised as being the finest in the world. Everyone was provided by the press of the country—particularly the local press, which gave running commentaries on local government—with the means of keeping in touch with municipal affairs, and people only had themselves to blame if they were unaware of the good work which was being done not only by the municipal authorities, but by the local Urban District Councils in so many districts.

The LORD MAYOR OF CARDIFF, in responding, referred to the excellent work which the Society of Incorporated Accountants was doing and declared that as an educationalist of many years' experience, he had the utmost regard for professional bodies such as the Incorporated Society, and the efforts they made to improve the standard of education among their members. As far as South Wales and Monmouthshire was concerned, he was convinced that the future was bright and that a new dawn was not far away. Recent developments had made it possible for them to believe that there would soon be new industries established in the district and increased production in those already existing. In Cardiff the opening of the Dowlais works was a good omen, but it was important that they should all continue to work together to ensure the prosperity of a district with which they were all so vitally connected.

The MAYOR OF NEWPORT (Councillor W. Casey), who also responded, declared that many people did not realise the amount of work that was put in by town and city councillors. Some people thought they were mere figure-heads, but he could assure them that active interest in public life made very heavy demands upon a man and his time. It was a full-time job despite the fact that a city or town councillor received nothing for his services. Referring to the efforts of Cardiff to obtain recognition as the capital of Wales, he assured the Lord Mayor and the company that they need fear no opposition from Newport. All Newport was concerned in was that it should be the most important town in Monmouthshire and the centre of industrial and cultural life in that county. On the other hand, when it came to a question of securing new industries, Newport would be in the forefront in making claims for recognition.

Mr. C. T. STEPHENS, in proposing the toast of "Our Guests," mentioned the many interests and professions represented at the gathering, and coupled with the toast the names of Mr. Gilbert D. Shepherd, F.C.A., the President of the National Chamber of Trade, and his esteemed friend, Dr. D. W. Oates, M.A., of Newport.

Mr. GILBERT SHEPHERD, in responding, referred to the Society as a great force for good in the commercial world of South Wales, whilst Dr. Oates also referred to the high standard and professional attainments of many of the members with whom he was personally acquainted.

INCORPORATED ACCOUNTANTS' COURSE.

An Incorporated Accountants' Course will be held at Caius College, Cambridge (by kind permission of the Master and Fellows) from Wednesday, July 1st, to Sunday, July 5th, 1936. The arrangements will be similar to those made at the very successful Course which was held at Caius College in 1934.

It is hoped that the Vice-Chancellor of the University will be present at the opening meeting of the Course on the evening of Wednesday, July 1st. The mornings of the following days will be occupied by lectures delivered by leading members of the Society, followed by discussions. The subjects will include :—

"Public Speaking," by Mr. Richard A. Witty, F.S.A.A.

"Preparing Accounts from Incomplete Records," by Mr. W. J. Back, A.S.A.A.

"Insolvency," by Mr. C. M. Dolby, F.S.A.A.

"Fixed Trusts," by Mr. E. Cassleton Elliott, F.S.A.A.

"Costing in Relation to Contracts on a Percentage Basis," by Mr. W. H. Stalker, F.S.A.A.

The Course is intended for junior Incorporated Accountants. Those attending will reside in Caius College, and dinner each evening will be in the College Hall. A number of guests of the Society will be entertained at dinner on Friday, July 3rd.

During the afternoons facilities will be available for golf, tennis, swimming and boating.

The full programme and forms of application will be issued shortly. The fee for the Course will be £4. Application forms should be sent to the Secretary of the Society of Incorporated Accountants and Auditors, Incorporated Accountants' Hall, Victoria Embankment, London, W.C.2, not later than Wednesday, May 27th.

Reviews.

Murray & Carter's Guide to Income Tax Practice. 13th Edition. *By Roger N. Carter, F.C.A., and Herbert Edwards, M.A. London : Gee & Co (Publishers), Ltd., 6, Kirby Street, E.C.1.* (950 *pp. Price* 31*s.* 6*d. net.*)

This well known publication deals fully with income tax in all its ramifications. Particular attention has been paid to case law and every new case has been inserted in its appropriate place. Extracts from judgments have also been given in certain leading cases, whilst the chapter on Sur-Tax has been entirely recast. The appendix contains full particulars regarding depreciation allowances under hire-purchase agreements, tramways, gas and electric light undertakings, as well as a schedule of agreed rates of depreciation in relation to other industries.

Apportionment in Relation to Trust Accounts. 2nd Edition. *By Alan F. Chick, Incorporated Accountant. London : Sir Isaac Pitman & Sons, Ltd., Parker Street, Kingsway, W.C.2.* (236 *pp. Price* 10*s.* 6*d. net.*)

The author here presents an exposition of the main principles bearing on the subject of apportionment with an exemplification of their application by practical illustrations. In bringing out the new edition certain portions of the book have been re-written and amplified, whilst two chapters have been added, one dealing with hotchpot and the other gathering together a number of income tax and sur-tax decisions bearing upon apportionments. Amongst the subjects discussed are dividends, rents and profits, losses, bonus shares, change of investments, and residuary personalty. The appendix contains extracts from statutes bearing on the subject matter.

Ringwood's Principles of Bankruptcy. 17th Edition. *By Alma Roper, Barrister-at-law. London : Sweet & Maxwell, Ltd., 2 and 3, Chancery Lane, W.C.2.* (684 *pp. Price* 22*s.* 6*d. net.*)

The size of this book seems rather formidable, but nearly one-half of it is occupied by appendices, including the Bankruptcy Act, 1914, with the rules and forms relating thereto, scale of solicitors' costs, Board of Trade regulations, &c. The text presents a clear view of the law in simple language and the matter is well classified. The marginal notes, which are in narrative form, will be found very useful to students.

Statistics and Their Application to Commerce. 7th Edition. *By A. Lester Boddington, F.S.S. London : H.F.L. (Publishers), Ltd., 19, Fenchurch Street, E.C.3.* (356 *pp. Price* 12*s.* 6*d. net.*)

In bringing out this edition Mr. Boddington states that he has given effect to numerous suggestions and helpful criticisms received from readers of previous editions. Chapters on "The Census as an aid to Scientific Business" and "Business Research" have also been added. The text is supplemented by numerous diagrams and illustrations and is well produced.

Snelling's Practical Income Tax. 14th Edition. *By C. W. Chivers. London : Sir Isaac Pitman & Sons, Ltd., Parker Street, Kingsway, W.C.2.* (182 *pp. Price* 3*s.* 6*d. net.*)

This is a useful little book dealing in brief form with the various aspects of income tax administration, including the making of returns, the computation of assessments, and the preparation of claims for repayment, &c. The book also contains a full list of the latest agreed rates of depreciation in various industries, and tables showing the amount of income tax and sur-tax payable in respect of incomes up to £100,000 at the 4/6 rate.

Executors and Administrators, Their Functions and Liabilities. 5th Edition. *By G. F. Emery, LL.M., Barrister-at-Law. London : Gee & Co. (Publishers), Ltd., 6, Kirby Street, E.C.1.* (112 *pp. Price* 5*s. net.*)

In this book the author deals in brief form with numerous matters relating to the administration of trust estates, including the powers and duties of personal representatives, the carrying on of the business of the deceased, legacies to infants and various questions arising in the administration of an estate. Information is also given as to the requirements in obtaining probate, together with a form of renunciation of probate.

Dictionary of the French and English Languages. *By J. O. Kettridge, F.S.A.A., Officier d'Académie. London : George Routledge & Sons, Ltd., 68-74, Carter Lane, E.C.4.* (526 *pp. Price* 3*s. net.*)

This small but comprehensive dictionary will be found of great value, whether it is used alone or—as supplying the necessary background of general vocabulary—in conjunction with one of Mr. Kettridge's specialised French dictionaries of commercial and financial terms, which have already been reviewed in our columns. The size of the volume and its unrestricted scope obviously do not permit such detailed treatment of individual words, or such wealth of examples of their use, as we have noticed in the author's technical dictionaries; but alternative renderings and idiomatic phrases are freely given, while the distinctive type and symbols used prevent any confusion between the various phrases and compound or derivative words grouped under each heading. The pronunciation of each French word is indicated by the symbols of the International Phonetic System. French and English irregular verbs are conjugated at the ends of the respective sections of the dictionary. Purchasers of this book will acquire a very serviceable work of reference at an extremely low price.

*Solicitors' Accounts under the New Act.

A LECTURE delivered to the Incorporated Accountants' Students' Society of London by

MR. W. J. BACK,
INCORPORATED ACCOUNTANT.

Mr. W. STRACHAN, F.S.A., occupied the chair.

Mr. BACK said: The Solicitors Act, 1933, together with the Rules made thereunder, came into operation on January 1st, 1935, and the year 1935 is, therefore, the first in respect of which the accounts of solicitors are subject to this Act and the Rules.

The point of difficulty in regard to solicitors' accounts, and the only matter that calls for distinctive treatment, is that, in the course of a solicitor's practice, he is frequently the temporary custodian of monies which are either on passage to third parties from clients or received on behalf of clients from third parties. In some cases the monies will be passed on immediately; in others they may remain in the solicitor's possession until the appropriate moment when documents have been completed or, perhaps, until suitable investments are found. In certain cases he may act as a stakeholder between the parties. It is obvious that if he receives monies for several clients and pays these sums into his own banking account, where some of these amounts lie for a substantial period, it may be by no means easy for the solicitor to be certain at any moment how much of the money in the mixed account is his own, and he may be misled (particularly if his book-keeping records are incomplete, or not up to date) so that, in ignorance of the facts, he may use money belonging to one client to make payment on behalf of another client, or even for his own purposes. It is much easier to make a slip of that kind than it is to recover the position subsequently, and it may very well be that the first unfortunate step in many cases of disaster has been taken through simple ignorance, or defective book-keeping by an unqualified staff, or even through mere failure, in a time of pressure, to keep the records up to date.

This difficulty is not peculiar to the legal profession, though it is more frequent there than elsewhere, but it may arise in the case of any professional man who receives money on behalf of his clients for disbursement, and it must not be supposed that there is any higher proportion of "black sheep" in the legal profession than elsewhere. The number of fraudulent solicitors is very small when one has regard to the great number of practising solicitors, but the publicity given to the few sinners creates an altogether disproportionate impression on the public mind.

The principle of the Act is that solicitors should not be allowed to pay monies belonging to clients into their own banking accounts, but should keep one or more separate accounts in the title of which the word "client" should appear, so preventing confusion between the solicitor's own monies and those he holds in trust.

The Act of 1933 is described in its heading as "An Act to amend the law relating to solicitors by providing for the making and enforcement of rules as to the keeping of accounts for clients' monies and other matters of professional conduct." It was passed after long discussion and agitation, and the system now officially prescribed is one which had already become the practice in the best offices, both in regard to the internal book-keeping and banking arrangements.

* *This lecture was also delivered to the South Wales District Society of Incorporated Accountants at Cardiff.*

The Act, by sect. 1, provides that the Council of the Law Society shall make rules:—

(1) As to the opening and keeping by solicitors of accounts at banks for clients' money; and

(2) As to the keeping, by solicitors, of accounts containing particulars and information as to the moneys received, held, or paid by them, for or on account of their clients; and it empowers the Council of the Law Society to take action, when necessary, in order to ascertain whether the Rules are being complied with.

On June 8th, 1934, the Rules were duly made by the Law Society and received the approval of the Master of the Rolls. These Rules provide:—

(1) That every solicitor shall keep such books of account as may be necessary to distinguish in connection with his practice as a solicitor:

(*a*) Monies received from, or on account of, and monies paid to, or on account of, each of his clients; and

(*b*) Monies received and paid on his own account.

This Rule makes it a statutory obligation of all solicitors not only to keep proper books and accounts, but also to sub-divide monies and banking accounts. It was, of course, the practice of the overwhelming majority of the members of the profession to do this long before the Act came into force, but now, non-compliance may not only be fraught with unfortunate results to the solicitor, but may also involve him in penalties.

(2) That every solicitor shall, without undue delay, pay monies held or received on behalf of the client into an account at a bank, kept in the name of the solicitor, in the title of which the world "client" shall appear.

There is no definition of "undue delay," which would be a question of fact in each case, and, presumably, evidence would be received as to the general practice of the profession in this regard, and that evidence would be applied to the special circumstances in hand.

There is a proviso to this Rule that where a cheque is received consisting in part of client's money and in part of money due to the solicitor, it may be split and paid in part into one account and the remainder into the other, or, alternatively, the whole may be paid into the "client" account, and the part belonging to the solicitor recovered under a provision in Rule 4, but in no case must the whole sum be paid into the solicitor's own account.

It may be suggested that in cases where "splitting" is of frequent occurrence, it will be worth while to have special bank paying-in books printed, which will show the total of the cheque on the counterfoil and by means of two separate slips (perforated) for bank use, the division between (*a*) "Clients'" Account, and (*b*) Solicitor's Office Account. Such books would be similar to those now used by agents and branch shops banking for credit of head office. It is thought that this would be a convenience to the bank as well as to the solicitor, and, in the event of any enquiry as to the action taken, the evidence supplied by the counterfoil of the paying-in slip would be very helpful.

(3) Rule 4 provides that no money shall be drawn out of a client account to make payments on behalf of a client in excess of the money in the account belonging to that particular client.

One client's money must not be used for another client's purposes, even if the intention is that this user shall be temporary only. Accommodation, pending the provision of funds by the client, must be given by the solicitor from his own funds.

The Rule also makes provision for the recovery by the solicitor of money paid into a client account on a composite cheque, which has not been split, and also of monies paid into the account by mistake or accident, and for the withdrawal from a client account of sums properly due to the solicitor by a client whose monies are in that account.

(4) Certain exemptions are made by Rule 5, including the permission that the Rule shall not apply to monies which, for his own convenience, the client requests the solicitor to withhold from the client account. It is very important, in any case in which it is proposed to take advantage of this exemption, to see that its terms are properly complied with. The client must make request, and it must be for the client's convenience, and if the solicitor's accounts are at any time examined for the Law Society under the later provisions of the Rules, the onus of proving these facts will rest upon the solicitor. He will be wise, therefore, to ensure that any such instructions are in writing, and indicate that the action is taken for the client's convenience.

A further exemption is that in cases where the solicitor is making a payment on behalf of his client immediately, as, for example, by endorsing a cheque over to a third party, he may do so without paying it into the clients' bank account at all, and a similar exemption is made in respect of monies collected for a client and paid over to him immediately on receipt.

This exemption is also stated to apply to a case in which money is paid to a solicitor "expressly on account of costs," and, probably, this expression covers cases in which payment is made to the solicitor in advance for services to be rendered, or even in respect of counsel's fees to be paid, as well as the ordinary case of payments in respect of bills delivered, but it is suggested that, as a matter of correct accountancy, payments in advance should be treated as "clients' monies" until the services have been rendered and a bill prepared.

(5) Next, the Rules deal with the enforcement of the provisions and give power to the Council of the Law Society, acting either on its own motion or in response to a complaint made to it, to require the solicitor to produce his books, pass-books, vouchers, &c., for the inspection of a person appointed by the Council, and require such appointee to make a report for the information of the Council on the result of his inspection. It is curious to note that, apparently, no right is given to the solicitor, either by the Act or the Rules, to inspect the report which is so made to the Council in respect of his books and accounts, though, on the other hand, there is no prohibition, and, presumably, such inspection might be allowed by the Council if it thought fit.

(6) Rule 8 gives two important definitions :—

First—When is a solicitor not acting as a solicitor ?

For purposes of the Act, "solicitor" means a solicitor practising on his own account or as a member of a firm, and includes a solicitor "acting as agent, bailee, stakeholder, or in any capacity in connection with his practice as a solicitor." This is very wide and probably covers all the activities of a solicitor in practice.

"Client" means any person or body of persons on whose behalf a solicitor, in connection with his practice, receives money. It appears, therefore, that "clients' monies," within the meaning of the Act and Rules, includes all monies which are not the property of the solicitor ; for example, if the solicitor is an agent of an insurance company, it is thought that he holds the agency "in connection with his practice" as a solicitor, and that the company is a "person or body of persons on whose behalf he receives money in connection with his practice," and, therefore, that the insurance company must be treated as a client and premiums collected paid into a "client" account.

In any case of doubt, monies should be paid into a client account, and, if necessary, recovered under the provisions of Rule 4 (*c*), so ensuring that no cause of complaint under the Act is given.

It should be observed that a solicitor's charges are legally due for payment one month after delivery of the bill, and if money stands in clients' money account to the credit of a client from whom charges are due, a transfer can be made from client account to office account (Rule 4 (*a*)). It is usual in such cases to obtain the client's authority for the tranfser, either directly or by his approval of the bill, but it is thought that the wording of the Rule : "money in respect of which there is a liability of the client to the solicitor," permits the solicitor to pay himself without waiting for his client's authority, if he so chooses.

A special note should be made of what are known as "Short Entries" ; these are records of receipts and payment of clients' monies which do not pass through the solicitor's bank accounts at all, but are passed on, perhaps, by the endorsement of a cheque, or it may be that the client's cheque is drawn payable to the third party, and is simply passed on by the solicitor. In such a case, the amount should be entered on both sides of the cash book and in the clients' ledger account, so as to retain a proper record of the facts in case it should ever become necessary to make a reference to them—or to supply evidence as to the actual happening.

Section 8 of the Act is important ; it would appear that a banker, by reason of the use of the word "client" in the title of a bank account, has notice that the monies therein are not the property of the solicitor himself, but are trust monies. The banker is not, however, under any liability or charged with any duty, to enquire as to the proper management of the account by the solicitor, and is not liable for breaches of trust on his part.

Sect. 8 (2) provides that the bank shall not be entitled to deal with the amounts in clients' accounts as though they were the unfettered property of the solicitor, and it will not be allowed to set off a personal debt of the solicitor to the bank against monies standing to the credit of clients' accounts.

It will be noted that the Rules include no provisions in respect to interest on clients' money bank accounts—this will be a matter of arrangement between the solicitor and the client. If moneys are left on deposit and earn interest, the interest is not necessarily the property of the client.

In the event of bankruptcy, it is provided by sect. 38 of the Bankruptcy Act, 1914, that the property of a bankrupt, which passes to his trustee for distribution amongst his creditors, does not include "property held by the bankrupt on trust for any other person." It follows,

therefore, that the balance standing in clients' money account, if it, in fact, represents clients' monies, is not available to the trustee in bankruptcy for the creditors in general, but must be paid over to the client, or clients, to whom it belongs.

Where it is found in the administration of a solicitor's estate in bankruptcy that the monies in "clients' account" are insufficient to discharge the solicitor's liabilities for trust funds, it is the opinion of counsel that the rule in *Clayton's* case applies, and the claims must be arranged in order of the date at which they were paid to the solicitor, and then the last received will be repaid first, and so on up the list; they will not abate *pari passu*, but the last will be paid in full and the earliest will get nothing—except the benefit of a claim as an unsecured creditor against the general estate.

The Necessary Accounts.

It is a fundamental duty of agents entrusted with their principals' moneys to be ready at all times to give account in respect of the funds entrusted to them, and many solicitors had systems of account in operation prior to the passing of the Act which substantially complied with the requirements of the new Act; the keeping of separate banking accounts for clients' monies also is no new thing in legal practice.

It is perhaps worth while here to recall the resolution of the Council of the Society of Incorporated Accountants in 1931 upon this matter, as a reminder that the statutory obligation now laid upon the legal profession is accepted as the standard practice of our own profession to the extent to which we are trustees of clients' funds:—

> "That the Council of the Society of Incorporated Accountants and Auditors recommends all members to observe the current practice adopted by Incorporated Accountants of keeping the monies of clients in a separate banking account exclusively used for the purpose."

and it will be obvious that these two professions do not exhaust the liability to account, but that such professions as, for instance, that of house and estate agents should make parallel arrangements.

It is now necessary to consider methods of account, suitable for the use of solicitors, which will comply with the provisions of the Act and Rules, and it may be desirable to consider separately the application of the Rules to:

(*a*) A small practice.
(*b*) A medium-sized practice.
(*c*) A large practice.

In a Small Practice.

Two bank accounts will usually be found to be sufficient, one for office monies and the other for clients' monies, with, perhaps, an additional account occasionally for large trusts, &c.

One cash book will be kept, ruled with double or treble columns on each side—one column for office, a second for clients' monies, and, where necessary, a third for sundries. As money is received or paid, it will be entered in the appropriate column marked accordingly, and the balances of these columns will then, at any moment, give the bank balance at that point on each account.

Ledger accounts must be kept showing separately the moneys held on account of each client and the position as between the solicitor and the client on all other matters in order to comply with Rule 1 and "keep such . . . accounts as may be necessary to distinguish" clients' monies from the solicitor's own money. This will be best done by using a ledger ruled with two columns on each side of the accounts, one showing monies received from clients and their usage, and the other the account as between the solicitor and the clients in respect of charges made.

It is still the custom in some solicitors' offices to maintain a cash journal, and, though this method of record is not to be recommended, if it is desired to continue the practice there is no difficulty in adapting the office system to the requirements of the Act. The principle of this book is that all cash transactions and the journalisation of all transfers are entered in a single book, from which postings can be made to the personal ledgers and the private ledger. There are various stock forms of cash journal rulings available at the law stationers, and these have columns for:—

(*a*) Payments into bank on office account.
(*b*) Payments into bank on clients' accounts.
(*c*) Drawings from the bank on office account.
(*d*) Drawings from the bank on clients' account.
(*e*) Journal columns provided for the debit and credit of private ledger accounts and for transfers; as for example, "charges" debited to personal ledger account and credited to private ledger account.

In a Medium Sized Practice.

In this case, also, it will usually be sufficient to maintain an office account and one main "clients" account with subsidiary clients' accounts in respect of such matters as large trusts, bankruptcies, &c. The simplest and, in most cases, the most generally satisfactory course will be to keep a single cash book with separate columns on each side for office account and clients' account or accounts, but two other forms may be met with:—

(1) Two cash books are sometimes maintained—one for office cash and the other for clients' cash. The office cash book will be in the usual form and deal with all receipts and payments out of the firm's own monies through the office bank account, whilst the second book will receive entries in respect of all clients' monies coming into the office. There may be but one clients' banking account, in which case this book will have one column only, or additional bank accounts, in which case several such columns may be found to be necessary.

Care will be taken that all clients' money received is entered into the correct cash book, and that extensions and bankings are in agreement.

(2) A more convenient division may be that which will collect all receipts into one book and all payments into another book; each will be ruled with the requisite number of analysis columns for the entry of each receipt or payment in the column appropriate to the particular banking account concerned. In this case there will, of course, be a summary book beginning with the opening balances on the several accounts and collecting up totals of receipts and payments for each period.

Whichever course is adopted, the balance on the appropriate column will give the amount in a particular banking account for periodical reconciliation with the pass-book of that account.

In a Large Practice.

As a practice grows larger additional difficulties, both in regard to organisation and record, inevitably arise.

Such a practice will be very largely departmentalised. There will be, for example:—

(1) Common law or litigation department, dealing with the enforcement of legal rights, conducting Court cases, &c.

(2) Conveyancing department, the work of which includes the carrying through in legal form of transactions relative to property, sales, mortgages,

leases, &c., conducting negotiations and preparing contracts for the purchase and sale of goods, company registrations, and other matters.

(3) Chancery department, dealing with the enforcement of equitable, as distinct from legal, rights, questions as to the construction of wills, duties of trustees, and other matters, and probably also :

(4) "General" department.

It may be found advantageous to maintain separate banking accounts in respect of the work of the various departments as well as, possibly, certain special accounts for large trusts, &c. The monies will be received and handled for all departments by the cashier's department. It may frequently be difficult, or impossible, for the cashier's department to determine with certainty, or to discover immediately, whether monies coming to hand are "office" or "clients" monies, and also to which department particular monies belong. In some such cases a transfer account system has been in use in the past, and has been found very convenient; with slight modifications this system may be made applicable to accounting under the Act. The method of working is that a "transfer" bank account is opened as a temporary receptacle of money and a general cash received book (columnar) maintained, with a "transfer account" column, into which all monies, the destination of which is not certain, are entered; and a series of analysis columns, so that as the facts become known the various amounts in the total column may be extended into the appropriate analysis column. There will be one column for each banking account kept, including the office account. All monies as received and entered in the transfer account column will be paid into an account called "clients' transfer account" at the bank; other receipts will be entered and banked appropriately. Once per week, possibly on a Friday, after the day's banking, cash received book will be scrutinised to ensure that all monies received have been extended into one or other of the analysis columns, and any necessary further enquiries made. Each column will then be totalled, the bank instructed as to the amount to be transferred from the "clients' transfer account" to each of the other accounts, and the total thereof entered in the "transfer account" column of the bank payments book.

In some cases a bank transfer book has been kept for the simplification of transfers, in which payments are offset against receipts and the balance only recorded for transfer at the end of the week.

It is thought that even if the transfer account should not be treated as a clients' account, such weekly transfer would be within the requirements of the Rule, that the amount is "without undue delay" paid into the clients' account. In such a case, however, it would be necessary—where monies were both received and paid within the week—to draw the cheque for payment on the client account and to instruct the bank immediately in respect of the particular amount to be transferred from the "transfer account" to the client account, as otherwise amounts paid and received within a week would not pass through a client account at all. It is suggested, however, that the use of the name "client" in the title of the "transfer account" would place beyond all doubt the compliance with the conditions of the Act.

Such transfer accounts provide for immediate record and banking of monies as received, with subsequent analysis as information becomes available.

Receipts in respect of "charges" would, of course, be paid into the office account, and transfers from clients' accounts to meet outstanding charges would be made through the cash book as a payment in the "client" account and a receipt in the office account.

Payments are entered in a "bank payments" book provided with columns similar to those already referred to in the case of the bank receipts book, and the chief matter for care is that payments outward should be made from the bank account in which the monies concerned are standing to credit. There will be an office payments column for the ordinary running expenses of the office, salaries, partners' drawings, &c., and in cases where payments made on behalf of clients require to be financed by the solicitor because the client has not yet put him in funds the appropriate amount would be drawn from the office account and treated as a loan. Of course, in the case of payments, there will rarely be difficulty in ascertaining out of which account the money is to be paid. A summary cash book will collect the totals, debit and credit, and show the balance on each account.

Ledger Accounts.

Whichever of the systems outlined for dealing with cash is adopted, separate ledger accounts should be kept to enable the solicitor to carry out the obligation under Rule 1, to keep such books of account as are necessary to distinguish the position in regard to the monies of each client and clients in the aggregate from the position in respect of the solicitor's own monies. It is thought that this will best be done by using a ledger ruled with two columns on each side of the accounts, one column showing the position in regard to clients' own moneys and the other column the position as between the solicitor and the client on all other matters. Some solicitors prefer, however, the maintenance of separate ledgers for clients' money accounts and for office accounts, which latter will include charges, but in such cases it is necessary to consult both ledgers in order to obtain a complete view of the position in regard to any client, and it is thought that the balance of advantage is with the method previously described.

Some solicitors still keep one ledger account only for each client, including therein both clients' money transactions and other items. This is not advisable; if it is done great care must be taken at balancing time to examine the make-up of the balance, it may be necessary to bring down a balance on each side.

The abstraction at any time of the balance standing to the credit of "clients' money" accounts will give an aggregate agreeing with the balance standing in bank account with that title. In any case in which payments on behalf of an individual client have exceeded the funds put up by that client, a transfer will have been made at the time of such payment from the solicitor's monies to the credit of client's account, so that no client's money account will show a debit balance.

Other Books.

The other usual books will be kept, bills delivered book (answering to the sales book in a trading business), recording particulars of all charges in respect of which bills have been rendered to clients; journal, petty cash book, &c. These present no special difficulty, and are not referred to in detail here.

Branch Offices.

Where there is a branch office or several such offices, it will usually be arranged that accounts are kept at the head office, and monies received at the branch will be banked for credit of the head office, which will be duly advised of the lodgment. Amounts payable, whether on clients' account or office account, will be paid by the head office, or at any rate by cheques drawn on the head office account, and receipts for the payment of fees will usually be sent from the head office. Petty cash will be kept at the branch on the imprest system. In some cases bills are completed at a branch office and a duplicate

sent to the head office. In other cases information and draft bills will be sent to the head office, where fair copy bills are made out and despatched. The utmost care must be exercised, both by the branch and the head office, to ensure that clients' monies received are duly banked to the credit of the "clients" banking account.

ANNUAL ACCOUNTS.

At the balancing period, which will be yearly or half-yearly, it will be necessary to prepare bank reconciliation statements proving that all banking accounts are in agreement with the records in the solicitor's books, and to abstract a trial balance. The trial balance will be in two parts :—

(*a*) A list of clients' money ledger balances, all in credit, which will be equal in total to the balance or balances on the "clients" banking accounts.

(*b*) The balances of office accounts, which will be all those not included under (*a*).

Together, these two statements will form the trial balance of the accounts of the practice.

In compiling the financial statements therefrom, consideration will be given to the valuation of outstanding work done in respect of which no bill has been rendered at the date of account. In many cases no value is set on this work for purposes of the accounts, but it is allowed to fall into the period in which the bill is delivered. Unless the amount of such outstanding work differs substantially at the beginning and end of a particular year, the working result will not be affected if the method of treatment is consistent. In a small practice, however, if it should happen that a great deal of work has been done on one matter, in regard to which there will be a relatively large bill, it is probably usual to bring in the work done on a low valuation. In any event, disbursements on account of clients will be brought to account as outstanding due to the solicitor.

Profit and loss account will have no feature differentiated from the similar account of any other professional man, but the balance sheet should be drafted so as to show that the Act and the Rules have been complied with. In order to do this, "creditors" will be divided and the amounts due to clients on monies supplied by clients will be shown separately from other creditors, whilst on the assets side of the balance sheet the two (or more) bank accounts should be shown separately.

It will then be seen that the amount standing on the clients' money bank account is exactly equal to the total shown as due to clients as creditors.

A suitable form of balance sheet, in a small case, will be as under :—

BALANCE SHEET ON THE ... DAY OF ... 19 .

Liabilities.			*Assets.*		
Creditors :			*Bank :*		
Clients' Accounts ...	... 200		Clients' Account ...	... 200	
Other outstanding Accounts	... 100		Office Account ...	... 140	
		300			340
Capital		600	Cash in hand		10
			Debtors		450
			Office Furniture and Equipment		100
		£900			£900

If any client's monies have, by his instructions, been kept out of the clients' bank account (Rule 5), the amount of the liability to client creditors may be greater than the balance shown in clients' bank account. Where the solicitor has put up monies for disbursement on account of a client, the client will appear among the debtors for such sum.

AUDIT.

The Act does not include any prescription in regard to audit. The Bill which was introduced into the House of Commons by Sir John Withers in 1931 required that solicitors' accounts should be audited and an audit certificate produced to the Law Society showing that proper books of account had been kept, that the provisions of the Act had been complied with, and that sufficient monies were in hand to meet the demands of clients at the date of account.

The Council is authorised to take action, but it will have no ground for doing so until information is laid before it which indicates a failure to comply with the Rules. This will in most cases be too late for any action which will save clients from loss. Probably Clause I (*c*) of the Act gives the Council power to make an "audit" rule.

It is clear that, to a considerable extent, the solicitor is in a position of trust comparable to that of directors in a limited company. In the case of a company, capital monies are received from shareholders, who are not able themselves to supervise its administration ; the administration is, therefore, entrusted to the directors, but the Companies Act provides that the directors shall annually present an account of their stewardship to the members in the form of a balance sheet and profit and loss account, and that these statements shall be reported upon to the members by an independent auditor. To the extent to which the solicitor has the funds of clients in his hands, he also is in a fiduciary position, but without any statutory requirement that his accounts shall be subject to audit. It is submitted, however, that as a trustee who is responsible to account he should take every precaution to ensure that no irregularity, arising possibly from inefficiency, incompleteness of record, or clerical error, exists. Only in the smallest cases will he be able, personally, to examine the whole of the book-keeping records, and he will be well advised, for his own assurance, to see that these records have been accurately and adequately kept and are available to produce for official inspection if required under Rule 6, to submit his books to professional audit. It is obvious that in the event of any complaint being lodged with the Law Society the best available evidence of *bona-fides* would be the ability to show that the accounts of the practice were regularly submitted to independent examination and a satisfactory report obtained by the solicitor annually. It is, therefore, not surprising that this practice is commending itself to an increasing number of practising solicitors.

An accountant, receiving such a commission, would examine the book-keeping records and vouchers in the usual way and to the usual extent, but, in addition, he would give special consideration to the provisions of the Act and satisfy himself that the office system is a satisfactory one, that the books are properly written up so as to comply with the provisions of Rule I, and that the balances standing on the clients' money accounts at the bank, as at the date of the balance sheet, are equal to the aggregate of the balances shown by the books as representing clients' money in the hands of the solicitor.

He may report to his solicitor client on the face of the balance sheet, or separately, in some such terms as :—

> "I have examined the accounts of———Solicitor, for the year ended———and have received all the information and explanations I have required. In my opinion the books of the practice have been properly kept so as to comply with the provisions of the Solicitors' Accounts Rules, 1935, and the amount in the "Clients' Banking Account" (or "Accounts") at the date of the Balance Sheet is equal to the aggregate sum shown by the books as standing to the credit of clients at that date."

Such a report could then, in case of need, be produced by the solicitor, or a copy supplied separately from the balance sheet ; it would cover the essential matters in regard to which confirmation is desirable.

Discussion.

Mr. E. J. GAMBLE, Incorporated Accountant: Mr. Back mentioned the fact that a solicitor's bill of costs is due one month after it has been rendered. What is the position with regard to a solicitor's lien on money which he holds in the event of the client wishing to withdraw the whole of that money before the account becomes legally due?

Mr. BACK: I imagine it would take the client all his time to get the solicitor to hand it over. The bill of costs would not be actually due until one month after it had been rendered, and I imagine that if he thought it necessary the solicitor would find some means of delaying any such repayment until it actually became due.

Mr. GAMBLE: Should the solicitor place his client's money to a deposit account, presumably he is liable to account to the client for any interest that might have accrued. I suppose he could not retain that interest himself.

Mr. BACK: If the solicitor is acting as a trustee the interest would properly belong to the client and the solicitor could not retain it, but otherwise it would be a matter of arrangement.

Mr. GAMBLE: Where a solicitor acts as a trustee in bankruptcy, I presume he must keep separate accounts for the liquidation, &c., in addition to the clients' account.

Mr. BACK: He must, of course, keep separate accounts. He is under the same rules and regulations as any other trustee or liquidator might be.

Mr. J. K. BELLCHAMBERS: May I ask if an estate agent is under the same rules as a solicitor?

Mr. BACK: There is no legislation that enforces on an estate agent the keeping of a separate bank account for clients' money. The same regulations ought to apply to him, but there is no law which enforces that, as there is in the case of a solicitor.

Mr. F. C. DAY: What is the position where a solicitor only keeps one column in the ledger account and there is a credit balance on the client's account and he sends in a bill for costs? Would he bring down the net balance as being the amount due to the client?

Mr. BACK: In such a case I suggested that solicitors should keep separate columns, one for clients' accounts and one for office accounts. They should not keep them in the same ledger account undistinguished.

Mr. F. C. DAY: How does one deal with bank charges?

Mr. BACK: In such a case the solicitor should arrange that charges should be made against his office account and not against the client's account. If he is going to have them made against the client's account he must keep a balance of his own money in the client's account.

Mr. R. ADAMS: With regard to bank charges debited to the client's account, would they be reimbursed out of the office account?

Mr. BACK: Yes, that is so.

Mr. ADAMS: As regards bills of exchange endorsed to a solicitor, to be held on behalf of the client, how would they be dealt with in the account?

Mr. BACK: The solicitor would have to keep a special bills receivable account in those cases.

Mr. F. G. KNIGHT, Incorporated Accountant: I believe there are exceptions to the rule that clients' monies must all be paid into the clients' account, one exception being where the client specially instructs the solicitor to withhold such monies from the client's account. If those instructions were given and the solicitor were told that he might pay such monies into the office bank account, would that be complying with the Act? If so, the balance sheet would show the "client" creditors at a figure in excess of the balance shown in the clients' bank account.

Mr. BACK: If the client specially instructed that the money should be withheld from the clients' account for his own convenience, then the solicitor might pay it into his own account. In that case the two accounts would not balance as I have shown them on the balance sheet. Client creditors would be in excess of client bank account.

Mr. S. CREED: What steps should the auditor take where he finds that his client is not complying with the Act?

Mr. BACK: There would be no duty laid upon the accountant to report the matter to anyone but his client. It would be his duty to report to his client and give such advice as he thought appropriate in the circumstances, but it would not be right to give information to any outside party. The information he has is confidential.

A STUDENT: Is it to be understood that a solicitor who does not keep two columns in his ledger is definitely not complying with the Act?

Mr. BACK: The Rule says that every solicitor shall keep such books and accounts as may be necessary to show and distinguish in connection with his practice as a solicitor (*a*) monies received from or on account of a client, and (*b*) monies received and monies paid on his own account. If a solicitor chooses not to keep proper records, then in the event of any inquiry it would be necessary for him to prove that he had kept such accounts as "distinguished" those monies.

A STUDENT: Surely if he had the figures in the ledger it would be sufficient for that purpose?

Mr. BACK: It might be sufficient for the solicitor's own information, but he might have to examine every separate item in order to get at the figures, and I think he would find it very difficult to persuade the authorities that he had properly distinguished between the monies if they were mixed up in one account and could only be separated by going in detail through the cash book.

Mr. R. H. L. COLLETT: Could Mr. Back tell me if a solicitor who only kept one column in the clients' ledger would be contravening the Rules? Would not the words beside the figure entries be sufficient to indicate compliance with the Rules?

Mr. BACK: It would be very difficult, in the case of inquiry, to show that.

Mr. COLLETT: Although an arithmetical calculation would be necessary in order to show what was due to the client, I suggest that if the entries were made in inks of different colours the Rules would be complied with.

Mr. BACK: If he chose to make all the entries in one column, clients' money items in red, or in green, and his own items in black ink, it might be held that he had complied with the Rules.

Mr. E. PHILLIPS: Does the Act require a separate banking account to be kept for each client by a trustee?

Mr. BACK: No; if he is a trustee for half a dozen matters he can put the monies into one account.

Mr. G. ROBY PRIDIE, Incorporated Accountant: We have heard an excellent exposition from Mr. Back, but there are one or two points yet that one would like to raise with him. I have not the Rules in front of me, but, if I remember correctly, before these Rules came into operation the original draft provided that the solicitor was entitled to open a clients' banking account with the solicitor's own money, which could be retained to the credit of the client's account so long as it might be necessary to keep that banking account open. Now, if that is so, obviously at the closing date of the balance sheet period the client's banking account as shown on the blackboard would be in excess of the actual monies that were due to the clients individually, and such excess would be part of the solicitor's own monies. I have had to do with solicitors' accounts now for some 20 odd years, and, as a matter of fact, my clients voluntarily ran their records upon the principles now provided for under the official Rules long before these Rules came into existence. My clients, however, have modified their system since those Rules came into force in the following way: they have now two separate cash books, one for the clients' money and one for office money, and also have correspondingly two separate paying-in-slip books. With regard to the personal accounts of the solicitor's clients in the ledger these have one column only. In posting the monies to that column it is clearly and distinctly set out on the credit side the source of the receipts and when payments out of the clients' bank account are made the amounts are in a like manner debited to the personal account. In due course charges notes are made out and passed through what in the commercial world would be called a "sales journal," but in the legal world is called "costs rendered journal." The clients' personal account is then debited with the gross amount of the costs delivered. When it

comes to dealing with the final cash adjustments as between solicitor and client, the solicitors have made arrangements with the bank to be supplied with an unstamped cheque book, and these unstamped cheque forms are used for the purpose of drawing funds out of the clients' banking account and transferring them to the credit of the firm's banking account in settlement of whatever the solicitor is entitled to, and the necessary postings from each of the cash books are made direct to the personal accounts of the clients. The solicitor through the medium of his ordinary paying-in slip book pays the unstamped transfer order forms into the bank along with other cheques to be credited to his own office account. The transfer order appears as a payment in the clients' cash book and as a receipt in the office cash book, and each of these items, being posted to the clients' personal account, automatically constitutes a contra entry in the ledger with the consequence that, at any moment, the clients' account shows the precise position as between client and solicitor. Incidentally I should mention that the system of unstamped transfer cheque forms can only come into operation in the event of both the banking accounts being opened at the same bank and under the control of the same signatory. If the client has money to his credit and also a debit for charges, and the account has not been cleared by the foregoing adjustments, the practice is to bring down cross balances on the account at the close of the solicitor's financial year. In addition, the solicitors keep a separate clients disbursement ledger, which obtains its postings direct from the petty cash book, in which case the solicitor necessarily finds the money in advance. When costs are made up, as probably many of you know, solicitors have a habit of finishing up their costs with an item "sundries," and this generally is rather in excess of the actual disbursement as shown by the disbursements ledger. The necessary adjustment is provided for in the "costs delivered" book, this having two columns, the first showing the gross costs (inclusive of petty cash disbursements) as rendered to the client, and the second showing the amount of actual disbursements included in those costs and the details of which are posted to the credit of the clients' personal account in the disbursement ledger. At the end of the period the first column constitutes the gross costs rendered and the second column shows the actual bare cash expended in disbursements and covered by the gross figures of the first column. With regard to the wording of the auditor's certificate referred to by Mr. Back, I personally would amplify the reference to the clients' banking account by describing it as "equal to or in excess of" the liabilities to the clients.

Mr. BACK: The answer to the question Mr. Pridie asked is that there has been provision made in the Rules as approved that a solicitor may put some of his own monies into a clients' account for the purpose of opening the account and for the purpose of covering any charges that may from time to time be made. Supposing he pays £20 into the account, there would always be £20 more in the bank account, and it would be "in excess of" the creditors. Mr. Pridie's interesting account of his client's book-keeping system will, I think, be very helpful to you.

The CHAIRMAN: We have had a very full discussion, but there are just one or two points I would like to refer to. Mr. Back mentioned the splitting of cheques. What he suggested was to use two paying-in slips and in that way to divide the cheques. It would comply equally with the Act if a solicitor paid the amount into the clients' account and drew out by another cheque the amount due to himself. That might sometimes be more convenient. I do not think there could be any objection to his paying into the clients' account and drawing out what was due to himself, say, for charges. With regard to the cash book, Mr. Back referred to the keeping of two columns, one for clients and one for the office. Would it not be advisable to have a detail column as well? I think, in most cases, that would be convenient, if not absolutely necessary. With regard to the transfer column which Mr. Back mentioned, that, I take it, would refer to clients' money only and would not relate to office money in any way. The column could not be used for office money because the whole amount entered in the transfer column in the first instance would have been clients' money.

On the motion of Mr. F. R. WITTY, the Lecturer received a hearty vote of thanks, and a similar compliment was paid to Mr. Strachan for presiding.

AN EMPLOYMENT AGENCY CASE

LAURIE & CO. *v.* JENNINGS.

In the Mayor's and City of London Court last month a case came before Judge Gerald Dodson which his Lordship said introduced matters of wider importance than the mere construction of the contract between the parties, Messrs. Laurie & Co., employment specialists in accountancy and engineering, of 28, Basinghall Street, E.C. and Mr. Victor Arthur Jennings, estimating clerk, of 65, Clifton Gardens, Chiswick, W. Plaintiffs sued defendant for £10 8s. representing 5 per cent. commission due from him on securing him an appointment with Messrs. Venesta, Ltd., plywood merchants and manufacturers, North Woolwich Road, E.16, at £208 per annum in November, 1935.

The defence was that the nature of the employment was misrepresented by plaintiffs and by the intended employers and therefore defendant declined to undertake the actual duties sought from him, alleging that the position as advertised was for an "estimating clerk for timber and plywood trade" and that Venesta's staff manager orally represented it to be for an estimator for plywood panelling, doors, Plymex metal-faced doors, specialised and general joinery, plywood, timber and fittings, whereas in fact it was for egg-boxes, packing-cases, cheese barrels, tinfoil, tubes, &c.

Mr. James Gibson, Chartered Accountant, manager of plaintiff firm, said that he received an enquiry from Messrs. Venesta, Ltd., on 25th and advertised the position on 26th November, when defendant called, was handed their usual form embodying the contract at issue, completed it, after being questioned was deemed to be suitable and was given a card of introduction to Messrs. Venesta. Witness said that at the time he knew nothing more about the job than appeared in the advertisement. Later the same day Messrs. Venesta telephoned, said they had engaged defendant at £208 per annum and there was no need to send any further applicant, and accordingly an account was sent to defendant for the fee due under the contract.

Mr. Robert Edward Fenning, accounts manager for Venesta, Ltd., said that he interviewed defendant and that his company employed an average of eight estimators for very varied manufacturing departments ranging from plywood to metal foil or collapsible tubes, and that one estimator might in course of time work through the whole. In reply to the Judge, he said that he explained to defendant the work done and required, its nature, that it would be necessary for him to study and learn the trade, methods of manufacture and general routine, and that he accepted the position. He came to work next day, was handed over to the man in charge of his department, started on egg-boxes and barrels as a preliminary, but in the afternoon he came to witness and said it was not the work he had been used to and he was doubtful as to whether he would like to continue; witness invited him to think the matter over and the next morning he telephoned and said he had decided not to go further with the position, and he did not return.

Defendant said that he gave plaintiffs particulars of his experience. Witness explained that in order to qualify

himself as an estimator in the timber and plywood trade he had, in addition to his working experience, taken a five years' technical course. When he discussed the situation with the last witness he was given to understand that his duties would be to estimate for flush doors of plymex metal and other classes of joinery work and that there was no mention of cheese barrels, boxes, egg-cases, or tinfoil—for which his specialised experience was unnecessary. He agreed that he did not think that at the time in question Messrs. Laurie knew any more about the job they advertised than what was contained in the advertisement—and he added that he was now employed with a company which specialised in building joinery.

In delivering judgment, Judge Dodson said :—

"This case is not free from difficulty, but I have no doubt at all of how I ought to dispose of it. It is a case which requires the construction of a contract between the plaintiffs and the defendant. . . . It is a case which introduces matters of a wider importance and has to be watched with considerable care, because, on the one hand, you have got an employment agency involved and, on the other hand, you have got a young man practically upon the threshold of life whose interests are involved. From time to time it so happens that employment agencies of an undesirable kind appear. There is no suggestion in this case that the plaintiffs are anything else than a firm of the highest reputation and I am quite satisfied that, from the care which they take in obtaining particulars and in forming a contract in terms which are comparatively easy to understand, they are conducting a business which is beyond all doubt a thoroughly respectable one—and no suggestion is made at all by Mr. Gillis, in this case, who has put all the points on behalf of Mr. Jennings so fairly and frankly as he always does. On the other hand, there is the defendant, and it is a great pity that there are not more young men like him, because Mr. Jennings has got a mind of his own. He says: I have spent some time in equipping myself for a certain walk in life; I decline to be a rolling stone, to try first one thing and then the other, and I am going, "having put my hand to the plough," never to look back. One wishes there were more young men like him, and I should imagine that, with that temperament and with those intentions, Mr. Jennings is likely to succeed in the walk of life which he has chosen and to which he wishes to adhere, and I am glad to know that he has got a job with joinery specialists, which is undoubtedly his particular line. These are matters of interest of a general nature, not strictly material to the question I have to decide.

"I have got to determine what are the legal rights between these two parties and therefore it is necessary to look at the contract. The advertisement is nothing more than an invitation to applicants who have had experience in the timber and plywood trade to call upon the plaintiffs because an estimating clerk is required. Defendant called and was handed a form. He said that he desired a position as an estimator. He was required to state his previous positions and duties, and that he did. Plaintiffs had got this application from Messrs. Venesta to supply them with an estimating clerk for their business, and apparently had been told that the person required should have experience in the timber and plywood trade. It is quite obvious that Mr. Jennings had had experience in the trade, was by experience an estimator, and that was the position he desired, and consequently a contract was entered into. There was an interview between Mr. Fenning and defendant and I have no doubt at all that there was some misunderstanding—their recollections are different. Mr. Jennings thought he was going to deal with the estimating of plywood panelling, doors, specialised and general joinery, plywood timber and fittings; whereas Mr. Fenning had run through the whole range or gamut of the activities of Messrs. Venesta, Ltd., which covered such useful things as egg-boxes and even penetrated the recesses of metal tubes. The salary was agreed and Mr. Jennings most frankly says "I accepted the position." It follows that at that moment the commission became due to the plaintiffs. The defendant presented himself the next day and he then found out that the work was different from that which he had expected; it was special work; there was no reason at all why he should not have gone on with it but, in his own discretion, he said, "I don't desire to deviate from my chosen path," and, while there was no quarrel with the nature of his work, no suggestion that it was beneath his dignity, or any folly of that kind, he said, "I decline to go on with this work because I prefer to go on with my old accustomed work."

"Whether or not the misunderstanding might amount to a misrepresentation such as to entitle Mr. Jennings to cancel the engagement and so give him a right to recover some portion of this money from the plaintiffs is a matter which I have not got to determine, at all events to-day. I think that this contract was not really a contract to secure a position for the defendant which he desired; it was to secure him a position as an estimator; I don't think that the contract amounts to that, because it would be leaving it too vague, and I am unable to say that the parties were not *ad idem*—as I am invited to do—for the simple reason that upon the face of the contract there does appear to be a complete apprehension of the matter.

"While it follows from this that the plaintiffs succeed in this action, it is quite apparent that the defendant here throughout has acted in good faith and it may well be that he was justified in risking throwing away this commission because at that price he desired to stick to the career which he had chosen and in which I think he is to be commended. That is no reason why the plaintiffs should be robbed of their legal rights, as I conceive them to be, and therefore it follows that there must be judgment for the plaintiffs for the amount claimed, with costs."

Counsel for plaintiffs intimated to the Judge that the case had been brought as a matter of principle and that if defendant would pay his clients' costs they were willing to forego their fee. Counsel for defendant said that he was much obliged and welcomed that, and that when one came across reputable employment companies one was surprised. His Lordship said that plaintiffs seemed to be very generous and right-minded in this matter, and that "it just shows that the world, after all, is progressing, despite all that is said."

INCORPORATED ACCOUNTANTS' GOLFING SOCIETY.

The Spring meeting of the society will be held on the St. George's Hill golf course on Thursday, May 7th. Play will commence at 10 a.m.

In the morning the Society's Challenge Cup will be competed for over 18 holes on handicap, and the same card will be taken as the first round of the Nicholson Trophy. A four-ball bogey competition will be played in the afternoon. Prizes at this meeting will be given by the Society.

Members of the Golfing Society may invite guests to the meeting, and any Incorporated Accountant wishing to attend should inform the Joint Honorary Secretaries at Incorporated Accountants' Hall, Victoria Embankment, London, W.C.2.

Forecasting in Business.

SUMMARY of an Address given to the Incorporated Accountants' District Society of Liverpool by

MR. HARGREAVES PARKINSON
Associate Editor of "The Economist."

Mr. PARKINSON, after some preliminary observations, declared that scientific forecasting technique was now as indispensable a part of the equipment of a modern business as a card index or a sound costing system. Forecasting, indeed, was complementary to costing; without it, the wisest schemes of financial control might be upset by conditions outside the control of any single business. Responsible executives were compelled to plan output, purchase of materials, stock control, selling policy, publicity, and finance for considerable periods ahead. The system of advance budgeting was universal among all businesses except the inefficient.

Time and again, however, budget estimates had been falsified by unforeseen changes in demand, prices, interest rates, and national prosperity. A budget which took account merely of such internal factors as were within the knowledge of a single management, and neglected imponderable external possibilities, was almost bound to err from the outset, and there was no necessary limit to the resulting damages. Within the speaker's knowledge, one large company had suffered a loss of £8,000,000 through excessive forward purchases on the eve of a world-wide depression. A vast group of shipping interests had completely come to grief through ill-advised acquisitions of tonnage at inflated values just before the bottom fell out of the freight market after the war. Such instances might be multiplied.

The need for forecasting had been enhanced by the growth in size of representative business units and the increasing complexity of modern industrial processes. Both the necessity and the feasibility of forecasting were governed by the periodicity of vast and disturbing fluctuations in public prosperity. Like all other "natural" phenomena, business activity had a rhythm, an ebb and flow, a wave-like progression, to whose manifestations the term "trade-cycle" had been applied. All forecasting was ultimately based on the trade cycle.

The speaker proceeded to discuss the amenability of different types of future possibilities to "planned foresight" and control. The idea that no future contingencies could be foreseen with 100 per cent. accuracy was completely erroneous. Some types of business phenomena corresponded to the rise and fall of oceanic tides, for which an exact time-table could be drawn up. Into this category fell, *e.g.*, business calculations based on the size, age composition, &c., of the population. At the other extreme, meteorological reports for a mere 24 hours ahead were notoriously liable to error; and so were commercial decisions which depended on the incidence of peace or war, the results of elections, the imposition of tariffs and taxation, the effect of new inventions, &c. Between the two extremes fell calculations based on "form" and contemporary records, such as popular wagering on the results of football contests—an "industry" in which Liverpool might claim pioneering pre-eminence! Into this category fell most business judgments affecting a single year's programme of engaging labour, buying materials, fixing selling prices and arranging short-term financial accommodation. Experience showed it to be possible to obtain uncanny accuracy of prediction in these respects, just as expert students of the sporting press occasionally picked a dozen winning teams. The scientific basis of the whole process, however, was merely the expectation that history would, after its convenient habit, repeat itself. Whenever any new and intrusive factor appeared, however, the whole scheme was liable to go awry.

In practice, business forecasting resolved itself into three successive stages of enquiry. First, those responsible must assemble and collate all available knowledge of existing conditions, in the matter of markets, production, technical processes, prices, &c., and it was essential that this fact-finding should embrace other companies, other industries and other countries than their own—for the conditions affecting the future were normally national, and even international, in scope. Secondly, they should endeavour to decide precisely what stage of the trade cycle they had reached, and what, in the light of past records, the next stage or stages were likely to be. Finally, they should scour the horizon for indications of exceptional conditions and estimate their probable lines of development and the scope of their disturbing effects.

In conclusion, Mr. Parkinson suggested that, in the absence of international disturbance, the present "recovery" phase in British industry would probably reach its climax in or before the middle of next year. Its turning point would be heralded, successively, by (*a*) higher long-term and, subsequently, short-term rates of interest (*i.e.*, a fall in gilt-edged security prices followed by a stiffening of discount rates in the London money market); (*b*) lower prices for industrial ordinary shares on the Stock Exchange, despite the apparent absence of any check to the volume of current factory output; and (*c*) a falling-off of activity in the building and the iron and steel trades. The speaker explained the economic significance of each of these developments, and urged that responsible business executives should have them closely in mind, and be prepared to act promptly on them, during the next few months.

QUESTIONS IN PARLIAMENT.

Estate Duty.

Sir WILLIAM DAVISON asked the Chancellor of the Exchequer whether he is aware that in the assessment of an estate for death duties the value of stocks and shares and other personalty is assessed at their value on the last day of the testator's life, no allowance being made for any depreciation in the estate which may be caused by the testator's death; while, on the other hand, life assurances taken out to provide for death duties are added to the estate of the testator at their full value after his death and not, as should be the case, comparable with other personalty at their surrender value immediately prior to death; and whether steps will be taken to value life assurances for death duties at their surrender value immediately prior to death, as in the case of other personalty?

Mr. CHAMBERLAIN: My hon. friend's question is based on a misapprehension of the law. Under sub-sect. (5) of sect. 7 of the Finance Act, 1894, as amended by sub-sect. (2) of sect. 60 of the Finance (1909-10) Act, 1910, the principal value of property for estate duty purposes is the value at the time of death and not the value at any prior moment of time. It is, moreover, provided in the latter-mentioned sub-section that proved depreciation in the value by reason of the death is to be taken into account.

Sir W. DAVISON: Is it not well known in recent cases where the testator was prominent in the management of a business, that the value of the shares fell as much as 2s. 6d. on his death and that the estate duty was levied on the lower figure of the Stock Exchange value immediately after the death?

Mr. CHAMBERLAIN: I have informed my hon. friend what the law is, but if he has any case which he thinks is not in accordance with the law, I shall be glad to look into it.

Deductions in Arriving at Profits for Income Tax.

Notes on Cases.

A LECTURE delivered to the Incorporated Accountants' District Society of Newcastle-upon-Tyne at Middlesbrough by

Mr. THOMAS DUNSMORE,
Senior Inspector of Taxes, Leeds.

Mr. DUNSMORE said: I propose to refer to a number of tax cases which illustrate some of the principles to be applied in determining the admissibility of deductions in arriving at profits assessable to income tax, but I must begin by explaining that in these notes I am expressing my personal views only and that the Board of Inland Revenue have no responsibility for what I shall say.

The guidance provided by the Income Tax Acts themselves is only very general in character and is contained in a small number of sections, as follows:—

INCOME TAX ACT, 1918, SECT. 209.

(1) In arriving at the amount of profits or gains for the purpose of income tax—

(*a*) no other deductions shall be made than such as are expressly enumerated in this Act;

(*b*) no deduction shall be made on account of any annual interest, annuity or other annual payment to be paid out of such profits or gains in regard that a proportionate part of the tax is allowed to be deducted on making any such payment.

(2) In arriving at the amount of profit or gains from any property described in this Act, or from any office or employment of profit, no deduction shall be made on account of diminution of capital employed, or of loss sustained, in any trade or in any profession, employment or vocation.

For the present purpose, the chief importance of sect. 209 is in its provision that "no other deductions shall be made than such as are expressly enumerated in this Act." Now, what are the deductions which are expressly allowed?

The Rule applicable to Case I of Schedule D provides that the tax "shall be computed on the full amount of the balance of the profits or gains." The Rule applicable to Case II of Schedule D provides similarly that the tax "shall be computed on the full amount of the balance of the profits, gains and emoluments of the professions or vocations."

The Rules applicable to Cases I and II of Schedule D include the following:—

Rule 1.—(1) The tax shall be charged without any other deduction than is by this Act allowed.

Rule 3.—In computing the amount of the profits or gains to be charged, no sum shall be deducted in respect of—

(*a*) any disbursement or expenses not being money wholly and exclusively laid out or expended for the purposes of the trade, profession or vocation;

(*b*) any disbursements or expenses of maintenance of the parties, their families or establishments or any sums expended for any other domestic or private purposes distinct from the purposes of such trade, profession or vocation;

(*c*) the rent or annual value of any dwelling house or domestic offices or any part thereof, except such part thereof as is used for the purposes of the trade or profession . . .;

(*d*) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed for the purposes of the trade, profession or vocation beyond the sum actually expended for those purposes;

(*e*) any loss not connected with or arising out of the trade, profession or vocation;

(*f*) any capital withdrawn from or any sum employed or intended to be employed as capital in such trade, profession or vocation;

(*g*) any capital employed in improvements of premises occupied for the purposes of the trade, profession or vocation;

(*h*) any interest which might have been made if any such sums as aforesaid had been laid out at interest;

(*i*) any debts, except bad debts proved to be such to the satisfaction of the Commissioners and doubtful debts to the extent that they are respectively estimated to be bad . . .;

(*j*) any average loss beyond the actual amount of loss after adjustment;

(*k*) any sum recoverable under an insurance or contract of indemnity;

(*l*) any annual interest or any annuity or other annual payment payable out of the profits or gains;

(*m*) any royalty or other sum paid in respect of the user of a patent.

There are one or two other specific provisions, the most important of which are Rule 5 applicable to Cases I and II, and sect. 18 of the Finance Act, 1919, which deal with the deductions allowable in respect of the gross annual value of mills, factories and other similar premises.

It will be seen that in the main the deductions expressly enumerated are those which are prohibited. The Acts thus furnish mainly negative information regarding the admissibility of deductions. More definitely positive guidance is provided by judgments in the Courts.

CASES DEALING WITH SPECIFIC SUBJECTS AND INDUSTRIES.

Mining Company Cases.

Appeals to the Courts against determinations by the assessing Commissioners were first allowed about 60 years ago and the first volume in the Reports of Tax Cases contains a number of decisions which have been repeatedly quoted and applied in the 50 or 60 years which have passed since they were given. The Scottish case of *Addie & Sons*, heard in 1875, decided that a firm of coal and iron masters were not entitled to a deduction of a proportion of the cost of pit-sinking and of machinery and buildings the value of which would be exhausted when the pits were worked out. This decision was approved by the House of Lords (although not specifically mentioned) in the well known case *Coltness Iron Company* v. *Black* in 1881. In the Court of Session, the Lord President stated that there was no difference in principle between a case in which a whole mineral field could be worked by the use of one pit and the case of the Coltness Iron Company, which had several mineral fields, and had from time to time to sink new pits as the fields at the old pits became exhausted. In both cases the cost of creating the pits was a proper expenditure of capital. Lord Shand referred to the general practice by which companies of this kind treated such expenditure as being on capital account and year by year wrote off part. He distinguished between pit-sinking and "stirring the soil for the purpose of getting at stone lying near the surface, in which practically the whole operation is that of cutting

the stone . . ." He also pointed out that the sinking of a shaft increased the value of the property.

These judgments in the Court of Session were delivered on the erroneous assumption that the company's claim related to actual outlay during the year on pit sinking and not, as was the case, to an estimate of the amount of capital expended on making bores and sinking pits which had been exhausted by the year's working. In the House of Lords, Earl Cairns held that sums so written off were inadmissible deductions, but he reserved his opinion on the question whether a mine owner "might not in some cases be entitled to an allowance in respect of the cost of sinking a pit by means of which pit the minerals are gotten which are the source of profit for the year in which the pit was sunk." He was perhaps referring to a conceivable but improbable case in which the minerals reached by the pit were exhausted in the year in which the pit was sunk. Lord Blackburn made a similar reservation, but Lord Penzance stated that in arriving at the profit from the mine there should be deducted the cost of working it, but not the cost of making it, which included the cost of pit sinking. A later case, *Bonner* v. *Basset Mines Limited* (1912), decided that the cost of deepening a main shaft was of the same nature as the cost of first making a shaft, and was not deductible as working expenditure.

The *Coltness Iron Company* decision was followed in *Alianza Company, Limited* v. *Bell* (1905). The company produced nitrates from raw material called caliche which was found in deposits on the ground at or near the surface. The caliche was loosened by explosives and dug up, and was then crushed and otherwise treated at the company's factory. The company claimed that the caliche should be treated as stock-in-trade, and that the cost of the caliche used up should be deducted in arriving at the profits. Channell, J., held that the using up of the caliche was an exhaustion of capital. The Court of Appeal agreed, treating the question as determined by *Coltness Iron Company* v. *Black*, and the House of Lords affirmed the view that the loss was a loss of capital.

On the other hand, in *Golden Horse Shoe (New), Limited*, v. *Thurgood* (1933) a slight distinction in the facts led to the conclusion that raw material acquired was of the nature of stock-in-trade. The company acquired for a large sum in shares the rights in certain enormous dumps of tailings or residuals, being the fine powdery substance which remained after the extraction of gold from ore taken from gold mines. The company's sole business was that of extracting gold from the tailings by a re-treatment process and selling the gold so obtained. Finlay, J., following, *inter alia*, the *Alianza* decision, held that the company had acquired a wasting asset and that the using up of the tailings was a loss of capital. His decision was reversed in the Court of Appeal. Lord Hanworth, M.R., stated: ". . . the company bought these dumps—which were no longer in a natural but in an artificial condition: which were in such a state that they would not have passed under a lease of 'beds opened, or unopened, or minerals,' . . . for the purpose of treating them as their stock-in-trade, lying stored and ready to their hand. . . . They had not to win them from the soil: they had been gotten already. . . ." Lord Hanworth quoted Channell, J., in the *Alianza* case, as follows: "The question . . . which we have to consider is what is the nature of the adventure or concern which this particular company is carrying on. If it is merely a manufacturing business, then the procuring of the raw material would not be a capital expenditure. But if it is like the working of a particular mine or bed of brick earth, and converting the stuff worked into a marketable commodity, then the money paid for the prime cost of the stuff so dealt with is just as much capital as the money sunk in machinery or buildings. . . ." Lord Hanworth concluded that in this *Golden Horse Shoe* case the facts pointed to a manufacturing business applied to raw material already won and gotten. Romer, L.J., agreed, taking the view that the dumps were not fixed capital but floating capital, being the company's actual raw material and not merely the means of obtaining the raw material.

Premiums on Leases.

In the case of *Watney & Co.* v. *Musgrave*, in 1880, the High Court decided that "a brewer paying a premium for the lease of a public-house for the purpose of letting it to a tenant under covenant to buy beer brewed by him is not entitled to a deduction on account of the gradual exhaustion of the premium." Such a decision would to-day appear to be inevitable, but in the two judgments there is no reference to the premium being capital outlay and the exhaustion a loss of capital. The judgments included observations which Channell, J., in the case of *Smith* v. *Lion Brewery Company, Limited* (1909), said would not bear investigation. Kelly, C.B., rested his judgment on the ground that in computing the profits of a brewer, the deductions should be "confined entirely and exclusively to the costs and expenses incurred in the production" of beer. He was of the opinion that expenditure was inadmissible if incurred "to promote the sale or increase the quantity of the sale." He thought expenses incurred on advertisements to increase sales were not deductible because they were not costs of production. Hawkins, J., also thought that deductions should be restricted to charges which were strictly incidental to production. He would not himself "go to the extent of saying that under no circumstances could the costs of conveying the beer to the consumer be allowed as a deduction, as a legitimate trade expense," for the reason that if the beer were not conveyed to the customer the customer would have to fetch his own beer and the sale price would be lower. In the present case, however, he decided that no deduction was allowable in respect of the exhaustion of the premium because the public-house was "not in the least degree connected with the trade profit of the brewery." If it had been connected he would presumably have decided that the allowance was due, following the case of *Knowles* v. *McAdam* (in which case, also, Kelly, C.B., gave the leading judgment), which decided that "in estimating the profits of mines a deduction may be allowed on account of the exhaustion of the stock of coals or minerals." *Knowles* v. *McAdam* was, however, overruled by the House of Lords in the case of the *Coltness Iron Company* v. *Black*, which I have already mentioned. And later cases to which I shall refer made clear that the holding of tied houses is to be regarded as incidental to the brewers' business, although, of course, loss through the exhaustion of a premium would not be deductible.

Application of Profits.

Another famous early case was *Mersey Docks and Harbour Board* v. *Lucas* decided by the Court of Appeal in 1881, and by the House of Lords in 1883. The Board claimed, *inter alia*, that they were not in receipt of assessable profits because they were compelled by their private Act to apply their moneys to certain specified purposes. The House of Lords, affirming the judgment in the Court of Appeal, decided that it was immaterial whether any other person was beneficially interested in the profits or to what purpose the profits were applied. The liability was on the receipts from the docks, less the expenses of carrying on the docks. The judgment

of Lord Justice Brett is incidentally interesting in giving an early definition of profits as "the difference between the receipts and the expenses incurred in order to obtain those receipts." A similar definition has been used in a great many cases heard since 1881.

Renewals and Depreciation.

That allowances for renewals of plant and for depreciation of the same classes of plant are alternative and cannot both be made for the same income tax year was decided by *Caledonian Railway Company* v. *Banks* (1880). The railway company claimed and been allowed to deduct the actual outlay on renewals of plant in the basis year. They claimed a further allowance in respect of the diminution in value of the plant on account of wear and tear in the year of assessment or, alternatively, a wear and tear allowance in respect of additions to plant in the preceding 5½ years on the ground that, although this plant was in fact depreciating, no allowance was made in the assessment because little or no repairs were required during the first 5½ years of its existence. The Special Commissioners held that the allowance of repairs and renewals maintained, for income tax purposes, the value of the plant and that "diminished value by reason of wear and tear did not exist. . . . To allow deduction of the cost of renewals and repairs as in this case and also a percentage for diminished value by reason of wear and tear would be to allow twice deduction for the same thing." The decision of the Commissioners was confirmed by the Court of Session, which approved also the reasoning of the Commissioners.

Capital or Revenue Expenditure.

The case of the *City of London Contract Corporation* v. *Styles* (1887) brought out, *inter alia*, the distinction between assets with which and assets in which a trade is carried on. The company was formed to purchase as a going concern a business already being carried on by a firm of engineers and contractors for public works. The assets taken over consisted entirely of partially executed or wholly unexecuted contracts and of the rights thereunder and the benefits to accrue therefrom. The price paid was £180,000. In the computation of the profit for the first period of 13 months of their trading the company claimed to be allowed to deduct £80,000, being a portion of the £180,000. The Court of Appeal decided that the £180,000 was capital employed in acquiring the business and no part could be deducted as an expense necessary to earn the receipts. This decision was approved by the House of Lords in 1921 in the similar case of *John Smith & Son* v. *Moore*, Lord Sumner stating: "The business carried on was not that of buying and selling contracts but of buying and selling coals, and the contracts, which enabled the seller of the coals to acquire the coals, was no more the subject of his trading as a stock-in-trade for sale than a lease of a brickfield would be the subject of a sale of bricks."

Improvements.

The earliest reported case dealing with the cost of improvements is *Highland Railway Company* v. *Balderston* (1889). The company claimed to deduct expenditure on the improvement of their Sutherland and Caithness section to bring it up to the standard of the rest of the main line and the extra cost of relaying permanent way with steel rails and heavier chairs over and above what would have been necessary to renew and relay the section as it was previously. The Court of Session referred to the fact that the company had charged this outlay to capital, but this fact was treated only as an indication of the nature of the outlay and not as concluding the question. The Court decided, however, that the expenditure was incurred on the improvement of the property and must therefore form a charge against capital. There was no reference in the judgment to the argument which is sometimes used on behalf of traders, that the expenditure on improvements might have been incurred only to maintain and not to increase the earning capacity of the assets. The expenditure was held to be on capital account, because it improved the physical character of the assets.

Gas Manufacture.

Dillon v. *Corporation of Haverfordwest* dealt with an ingenuous claim that all expenses incurred in the manufacture of gas and lighting the town should be deducted in arriving at the profit from sales to private consumers. The Corporation argued that "the local Act only gives the Corporation power to supply private consumers after they have performed the public duty of lighting the streets, &c. They cannot make a profit by selling gas to private individuals until they have fulfilled that public duty. Therefore, the amount they pay in order to fulfil the public duty is really deductible before they come to anything in the nature of profit. You must take the adventure, or trade, or concern as a whole." Pollock, B., however, took the view that a trade was not carried on in the provision of public lighting, but the trade was the trade of supplying gas to private consumers and that the expenditure on public lighting was not incurred for the purposes of the trade but for the purpose of enabling the Corporation to enter upon that trade.

Removal Expenses.

Granite-Supply Association, Limited, v. *Kitton* (1905) is the authority for the disallowance in certain circumstances of removal expenses. The company removed their business to larger premises and incurred expenditure in carting granite from the old yard to the new, and in taking down and re-erecting two cranes. The Court of Session decided that none of the cost was allowable. The Lord President's argument referred only to the expenditure on the cranes, which he thought was inadmissible because it was of the same nature as if the company had not already owned a crane and, in fitting up the new yard, had had to buy a new crane. This analogy was perhaps intended to emphasise the fact that the expense was voluntarily incurred in connection with an expansion or improvement of the company's business. Lord McLaren also made no specific reference in his argument to the cost of carting the granite, but likened the transfer of the plant to the replacement of a building which has been burned down. He also made the point, which has been frequently rejected in subsequent cases, that the cost of re-erecting the cranes and of carting the granite was inadmissible, "being a thing not done for the benefit of the one year." According to later decisions, this view is correct with regard only to non-recurring expenditure which produces an advantage of an enduring character. The question whether expenditure is incurred in order to produce income in the same year is irrelevant. So far as removal expenses are concerned, the practice is to admit the expenditure if the removal is forced on the trader and in any case to allow the cost of removing stock-in-trade.

Rubber Estates.

The question of the relation between expenditure in a year and the income of the same year was raised in *Vallambrosa Rubber Company, Limited*, v. *Farmer* (1910). The case heading states that in the year in question one-seventh only of the company's rubber estate was producing rubber, the other six-sevenths being in process of cultivation for the production of rubber. Expenditure for superintendence, weeding, &c., was incurred by the

company in respect of the whole estate. The Revenue argued that, as in the year in question only one-seventh of the plantations had begun to produce rubber, a deduction of only one-seventh of the general expenditure on the whole of the plantations should be allowed as being a fair estimate of the expenditure incurred in obtaining the rubber actually produced. The Court of Session, however, took the view that the company's trade was "the cultivation and production for sale at a profit of rubber and other tropical products. For this purpose land had to be acquired, cleared and drained, roads made, and buildings erected, before the cultivation began. What was expended for these purposes was, I think (I am quoting the Lord President), capital expenditure, and not, in the sense of the Income Tax Act, money laid out and expended for the purposes of the trade, &c. But once the cultivation began with the planting, expenditure on cultivation, production and marketing was, I think, revenue expenditure for the purpose of the trade, &c." The Lord President referred to dicta in earlier cases which suggested that expenses deductible were those only which were necessary to earn the receipts of the year. He thought this suggestion was absurd because it would mean "that if your business is connected with a fruit which is not always ready precisely within the year of assessment you would never be allowed to deduct the necessary expenses without which you could not raise that fruit." He also gave a very rough definition of capital and revenue expenditure which has been often quoted: "capital expenditure is a thing that is going to be spent once and for all, and income expenditure is a thing that is going to recur every year." The Court decided that the expenditure on superintendence, weeding, &c., on the whole estate was deductible, and not merely one-seventh.

Enduring Expenditure.

Ounsworth v. *Vickers, Limited* (1915), illustrated the fact that operations carried out to reduce future recurring revenue outlay may themselves have to be regarded for income tax purposes as being of a capital nature. The works of the company were approached by a channel which had begun to silt up because the harbour authorities had neglected to keep it dredged. The harbour authorities were unable to find the funds necessary for the complete restoration of the channel and a cheaper scheme was devised involving a lesser depth of dredging and the provision of a deep water berth. The company bore the greater part of the cost. If this expenditure had not been incurred by the company it would have been impossible to deliver a battle cruiser which was then in course of completion. The company claimed that this expenditure should be deducted in ascertaining their liability. Rowlatt, J., held that it was capital expenditure. He drew no distinction between the partial dredging and the construction of the deep water berth, although he agreed that "assuming that dredging a channel is income expenditure if you keep on dredging it continuously every year, it is none the less income expenditure because the dredging was not done for a year or two because it was not worth while to do so," and that, although it was not the company's business to do the dredging, "if they had chosen to do it for their own benefit every year the Commissioners could perfectly well have found that it was a proper deduction." Rowlatt, J., however, took the view that the partial dredging and the creation of the deep water berths were incidental to the provision of a new means of access from the company's works to the sea, and that the cost was an enduring expenditure to serve the business as a whole and not merely for the purpose of enabling the company to deliver a particular ship.

Mineral Leases.

The Scottish case of *Robert Addie & Sons Collieries, Limited*, v. *Commissioners of Inland Revenue* (1924) also illustrates the importance of the form in which expenditure is incurred. Under the terms of a mineral lease the colliery company was obliged, either on the termination of the lease or when the ground was no longer necessary for the use of the works, to restore to an arable state all ground occupied by the company or damaged by their works or to pay the lessor for all ground not so restored at the rate of 30 years' purchase of the agricultural value, the ground in either event to remain the property of the lessor. In the exercise of the option the company paid the lessor on the occasion of the termination of the lease and of entering into a new lease a sum of £6,104 as representing the value of the damaged lands. It was held in the Court of Session that the payment was in the nature of capital expenditure. The Lord President stated: "What is 'money wholly and exclusively laid out for the purposes of the trade' is a question which must be determined upon the principles of ordinary commercial trading. It is necessary accordingly to attend to the true nature of the expenditure and to ask one's self the question, is it a part of the company's working expenses? Is it expenditure laid out as part of the process of profit earning? or, on the other hand, is it a capital outlay? Is it expenditure necessary for the acquisition of property or of rights of a permanent character, the possession of which is a condition of carrying on its trade at all?" He held that "the expenditure was made for the acquisition of an asset in the form of the means of access and passage, which was part of the capital establishment of the company, and, accordingly, cannot be treated as other than a capital expense." If, however, the company had been able under the lease to make good particular specific damage as it arose in the course of the working or had made recurring payments of compensation for specific damage as it arose, it is probable that the payments would have been admissible deductions.

Salaries and Commission.

It is sometimes claimed that the Revenue are not entitled to question the amounts paid by a trader in the name of remuneration, even if the payments are made to a member of his family. The case of *Stott & Ingham* v. *Trehearne* (1924) made clear that it is a question of fact to be determined by the Commissioners whether payments described as remuneration are laid out wholly and exclusively for the purposes of the business and are allowable in computing the profits. In this case, two sons who were employed by their father received each a salary, plus a commission on the profits at the rate of 5 per cent. prior to 1915, 10 per cent. for each of the years 1915 to 1917, and 33⅓ per cent. for each of the years 1918 and 1919. The Special Commissioners decided that the commission of 33⅓ per cent. was not on a commercial footing and that only up to 10 per cent. could be regarded as payment for services and deductible. The Court held that it was a question of fact and that there was evidence on which the Commissioners could properly come to their decision.

Bad Debts.

That the bad debts which are mentioned in Rule 3 as deductible must be trading debts and that losses suffered by a company through the mishandling of moneys by a managing director may not be deductible was decided by *Curtis* v. *J. & G. Oldfield, Limited* (1925). The managing director of a company of wine and spirit merchants was for many years up to his death in sole control of the company's business. An investigation

after his death showed that many payments and some receipts not relating to the company's business but to his private affairs had been passed through the company's books and some £14,000 was due from his estate to the company. The debt was valueless and was written off as bad. The General Commissioners allowed the deduction as relating to a bad debt which arose in the course of the company's trading. Rowlatt, J., held that there was no evidence to support the finding. He said: "When the Rule speaks of a bad debt it means a debt which is a debt that would have come into the balance sheet as a trading debt in the trade that is in question. It does not really mean any bad debt which, when it was a good debt, would not have come in to swell the profits. . . . In point of law the Commissioners were engaged in assessing the profits of the company's trade, not of the company itself but of the company's trade. . . . I quite think . . . that if you have a business . . . in the course of which you have to employ subordinates and owing to the negligence or the dishonesty of the subordinates some of the receipts of the business do not find their way into the till, or some of the bills are not collected at all, or something of that sort, that may be an expense connected with and arising out of the trade in the most complete sense of the word. But here that is not the case at all. This gentleman was the managing director of the company, and he was in charge of the whole thing, and all we know is that in the books of the company which do exist it is found that moneys went through the books into his pocket. . . . It seems to me that what has happened is that he has made away with receipts of the company *dehors* the trade altogether in virtue of his position as managing director in the office and being in a position to do exactly what he likes."

Brewery Cases.

There is a series of interesting and important cases dealing with the computation of the profits of brewers. I have already mentioned the case of *Watney & Co.* v. *Musgrave* (1880), which decided that a brewer was not entitled to a deduction on account of the gradual exhaustion of a premium paid for the lease of a tied house. The case of *Reid's Brewery Company, Limited*, v. *Male* (1891) decided that the company were entitled to deduct losses or bad debts on loans advanced to tied customers. On the facts stated the Court took the view that the granting of loans to their tied customers was part of the company's business of manufacturing and selling beer, and that the losses incurred on the loans were trading losses and not losses of capital. Pollock, B., said: "It is capital used by the appellants, but used only in the sense that all money which is laid out by persons who are traders, whether it be in the purchase of goods be they traders alone, whether it be in the purchase of raw materials be they manufacturers, or, in the case of moneylenders, be they pawnbrokers or moneylenders, whether it be money lent in the course of their trade, it is used and it comes out of capital, but it is not an investment in the ordinary sense of the word." Charles, J., stated: "I think that, upon the findings of this case, this money was money laid out and expended exclusively for the purpose of the brewery trade carried on by the appellants; and, that being so, it is a legitimate subject of deduction in arriving at the balance of profits and gains, even though it ought not, in the first instance, to be deducted from the profits of the concern."

On the other hand, *Southwell* v. *Savill Brothers, Limited* (1901) decided that expenses incurred in applications for new licences are expended on capital account, whether or not the applications are successful.

Strong v. *Woodifield* (1906) rejected a claim by a brewing company to deduct damages and costs incurred on account of injuries caused by the falling in of a chimney to a visitor staying at a licensed house owned and managed by them. The Lord Chancellor stated: ". . . it does not follow that if a loss is in any sense connected with the trade, it must always be allowed as a deduction; for it may be only remotely connected with the trade or it may be connected with something else quite as much as or even more than with the trade. I think only such losses can be deducted as are connected with it in the sense that they are really incidental to the trade itself. They cannot be deducted if they are mainly incidental to some other vocation, or fall on the trader in some character other than that of trader. The nature of the trade is to be considered. To give an illustration, losses sustained by a railway company in compensating passengers for accident in travelling might be deducted. On the other hand, if a man kept a grocer's shop, for keeping which a house is necessary, and one of the window shutters fell upon and injured a man walking in the street, the loss arising thereby to the grocer ought not to be deducted. . . . In the present case, I think that the loss sustained by the appellants was not really incidental to their trade as innkeepers, and fell upon them in their character not of traders but of householders. . . ."

A somewhat similar question arose in *Smith* v. *Lion Brewery Company, Limited* (1909/1910). The company were owners or lessees of a number of licensed premises which were let to tied tenants. The stated case found that the ownership or leasing of these premises was a part of their business as brewers and sellers of beer. Under the licensing laws the company were obliged as landlords to bear part of the compensation fund charges levied in respect of the tied houses. In the High Court, the Court of Appeal and the House of Lords, the case was heard in all by eight judges who in numbers were equally divided, but the view which prevailed was that the levy, though borne by the company in their capacity as landlords, was a payment essential to the earning of the profits and was deductible, the company having assumed the position of landlords "in the course of and solely for the purpose of their said business."

Similarly, in *Usher's Wiltshire Brewery, Limited*, v. *Bruce* (1914), the stated case found that premises let to tied tenants were acquired and held by the company "solely in the course of and for the purpose of their business and as a necessary incident to the more profitable carrying on of their said business." Following *Smith* v. *Lion Brewery Company, Limited*, the House of Lords decided that the company were entitled to deduct the following in arriving at their profits:—

(*a*) repairs to tied houses;
(*b*) differences between rents paid by them for leasehold houses or the Schedule A assessments of freehold houses, on the one hand, and the rents received from the tied tenants on the other hand;
(*c*) fire and licence insurance premiums in respect of the tied houses;
(*d*) rates and taxes;
(*e*) gas and water;
(*f*) legal and other costs.

Although under their leases the tenants were bound to pay some of these expenses themselves, the House of Lords took the view that "when the owners of a brewery business, who are also landlords of tied houses which sell their commodities by retail, come to be assessed under Schedule D (they can) in estimating the balance of profits and gains on the brewery business, bring into account expenses which they have properly, though

voluntarily, incurred in supporting their tenants so as to enable them to sell the goods supplied by the brewery company."

The several speeches in the House of Lords contain a number of interesting and important dicta, including the following:—

By Earl Loreburn:

". . . profits and gains must be estimated on ordinary principles of commercial trading by setting against the income earned the cost of earning it, subject to the limitations prescribed by the Act."

"And it is agreed that this letting at reduced rents is made solely to get the trade, which the using of the tied houses affords, and so to swell the profits of the brewery business. On ordinary principles of commercial trading such loss arising from letting tied houses at reduced rents is obviously a sound commercial outlay. Therefore, this item must be deducted."

By Lord Atkinson:

". . . I cannot see any difference in principle between a liability imposed on such a lessor by statute and a liability imposed upon him by the reasonable requirements of his trade." (His Lordship was here comparing the voluntarily incurred expenses in this case with the statutory compensation levy in *Smith* v. *Lion Brewery*.)

By Lord Parker of Waddington:

". . . where a deduction is proper and necessary to be made in order to ascertain the balance of profits and gains, it ought to be allowed notwithstanding anything in the First Rule (which reads: 'the tax shall be charged without any other deduction than is by this Act allowed') or in sect. 209 ('. . . no other deductions shall be made than such as are expressly enumerated in this Act') provided there is no prohibition against such an allowance in any of the subsequent Rules applicable to the case. . . ."

By Lord Sumner:

"The effect of this structure (of the Act), I think, is this, that the direction to compute the full amount of the balance of the profits must be read as subject to certain allowances and to certain prohibitions of deductions, but that a deduction, if there be such, which is neither within the terms of the prohibition nor such that the expressed allowance must be taken as the exclusive definition of its area, is one to be made or not to be made according as it is or is not, on the facts of the case, a proper debit item to be charged against incomings of the trade when computing the balance of profits of it."

"On the findings here the brewer is a brewer first and landlord only afterwards. His role as landlord is subsidiary, an incident of his trade as brewer."

By Lord Parmoor:

"The result of the findings of the Commissioners is that all the expenditure claimed as a deduction has been incurred on or in connection with premises solely acquired for the purpose of the trade of the appellants, and of which the possession and employment are necessary to enable them to earn the profits on which they pay income tax . . . and would be set against the receipts of the trade in an ordinary commercial balance sheet. . . "

In *Collyer* v. *Hoare & Co. Limited* the House of Lords decided in 1932 that in arriving at the deficiency of rents from tied tenants each tied house must be considered separately and, further, that in computing the deduction for a particular tied house account must be taken not only of the rent paid by the tenant but also of any premium paid by him. In the House of Lords, the company abandoned their previous contention that premiums received should be ignored in the computation of rent foregone, but the Lords reversed the decision in the Court of Appeal that the figures for all tied houses should be aggregated for the purpose of determining whether on the whole any deficiency of rents had been suffered and, if so, to what amount. The Lords took the view that the *Usher* case authorised deductions for deficiencies of rent but that to set against these any rents received in excess of rents paid or Schedule A assessments was prohibited by *Fry* v. *Salisbury House Estate Limited* (1930). At first glance it may appear illogical that a deficiency on rent is allowable and that an excess cannot be brought in; the House of Lords decision, however, was not that the excess was not a trading profit, but that it was a trading profit not liable, following the *Salisbury House* case, to income tax, Schedule D. The argument that the brewing business should be treated as one unit did not appeal to their Lordships.

The case of *Morse* v. *Stedeford* (1934) was decided in the High Court on its own facts, but it made clear that legal expenses incurred and compensation paid to outgoing tenants in connection with the transfer of licences to new premises are inadmissible as deductions on the principle adopted in the case of *Southwell* v. *Savill Brothers, Limited*, to which I have referred.

Lump-sum Payments.

There is another series of cases dealing with lump-sum payments. In *Royal Insurance Company* v. *Watson* (1896) one of the terms of the agreement under which the company had acquired the business of the Queen Insurance Company was that the purchasing company should take into their service the manager of the vending company at a salary of £4,000 a year, with liberty to commute. Shortly after the transfer of the business, the Royal Insurance Company paid the manager £55,846 in commutation of his annual salary. It was held in the House of Lords that this was not deductible, because it was part of the consideration for the transfer of the business and was therefore capital expenditure. Lord Herschell pointed out that "the payment was not made merely as the result of a contract of service with the former manager," and Lord Shand said: "If this had been a case of a voluntary agreement between the manager of an insurance company and the company for the payment to him of a salary for so many years, to last a definite time, but with power to the company, at any time they might think fit, to terminate the service by making the payment at once of a capital sum, I think there would have been much force in the argument that such a payment might properly form a deduction from gross profits in striking the balance liable to income tax, and I should make the same observation as to a case in which there has been wrongful dismissal of a person having an engagement for a term of years and who succeeds in obtaining damages on that account."

Smith v. *Incorporated Council of Law Reporting* (1914) dealt with a retiring gratuity paid to one of the Council's reporters. A reporter was in no way entitled to a retiring gratuity, but it had been the habit of the Council to give a gratuitous pension, or a gratuity to a reporter who retired after long service. Scrutton, J., as he was then, treated the Commissioners' decision as a finding of fact that the payment was "money wholly or exclusively laid out or expended for the purposes of such trade," and the deduction was allowed.

In *General Reversionary and Investment Company Limited* v. *Hancock* (1918) the company sought to charge as a trade expense a lump sum of £4,994 which it had paid for the purchase, for the benefit of a former actuary and secretary of the company, of an annuity equal in

amount to the pension which had been awarded to him by resolution of the company. It was held that this was not capital expenditure and was admissible. Lush, J., stated that "the £4,994 should be treated, as the pension was treated, as an ordinary business expenditure, and that the deduction should be allowed. It is the pension in another form: it is actuarially equivalent in value and it is identical in character. It was paid to meet a continuing demand which was itself an ordinary business expense, as the surveyor had treated it. It was no part of the bargain between the two companies that it should be paid, as in *Watson's* case. It was paid, as the Commissioners state, 'entirely as a matter of domestic arrangement.'"

Rowntree & Co., Limited v. *Curtis* (1924) decided that the company was not entitled to deduct a lump sum of £50,000 which it had set aside in the hands of trustees as a fund for the relief, out of the income therefrom, of invalidity, &c., amongst its employees. Pollock, M.R., distinguished this from the *Hancock* case because, in the first place, it was not intended by the company that the lump sum should itself be utilised to meet the continuing business demand for invalidity payments to employees but that the income from the fund should be used and, in the second place, that the invalidity liabilities were contingent and not ascertained. He therefore thought "it more closely approximates to the case of the purchase of a freehold in order no longer to have the demand for rent than it does to a prudent business payment in order to be rid of what was an ascertained demand likely to continue over a series of years." Warrington, L.J., stated: "The amount of £50,000 has no real relation to the expenditure, the nature of which would justify the payment. It has no real relation to the amount likely to be required for this purpose. What the company have really done, in my opinion, is to create a permanent charitable fund applicable in the first instance, but not exclusively so, to the meeting of the claims of their workpeople in respect of invalidity but applicable also in the circumstances specified in the deed to other charitable purposes. . . . The mere fact that the company has no continuing interest in the surplus income or in the capital does not alter the position. . . ."

A similar view was taken in the House of Lords in *Atherton* v. *British Insulated and Helsby Cables, Limited* (1925), regarding a lump sum which the company had contributed irrevocably as the nucleus of a pension fund established by trust deed for the benefit of its clerical and technical salaried staff, the lump sum being the amount actuarially ascertained to be necessary to enable past years of service of the then existing staff to rank for pension. Rowlatt, J., thought the case was governed by the *Hancock* decision, because the lump sum was an actuarial sum preventing the arising of payments which would have been deductible. His judgment was, however, reversed in the Court of Appeal whose decision was upheld by the House of Lords. Pollock, M.R., stated that "when you consider what is the purpose of this payment, the right attribute to apply to it is that it was a payment made as a capital outlay. . ." Warrington, L.J., thought that the payment "stands altogether on a different footing from that of a payment made by a person who is under an obligation legally or morally to make an annual payment and redeems that annual payment by making it once for all." Scrutton, L.J., thought this case was practically the *Rowntree* case, but Lord Atkinson and Lord Buckmaster considered that the two cases were distinguishable. Viscount Cave, L.C., stated: "But when an expenditure is made, not only once and for all, but with a view to bringing into existence an asset or an advantage for the enduring benefit of a trade, I think that there is very good reason (in the absence of special circumstances leading to an opposite conclusion) for treating such an expenditure as properly attributable not to revenue but to capital."

Mitchell v. *B. W. Noble, Limited* (1927), decided that a deduction was allowable in respect of a payment made to secure the retirement of a life director in the interests of the business. Rowlatt, J., stated: "I think that in the ordinary case a payment to get rid of a servant, when it is not expedient to keep him in the interests of the trade, would be a deductible expense." "If you say, 'I will not have a railing which perpetually falls down or wants repainting; I will abolish it and I will build a brick wall which will not fall down or will not want repainting,' that is a capital expenditure," but "this is no more than a payment to get rid of a servant in the course of the business and in the year in which the trouble comes. I do not think it is a capital expense." This view was upheld by the Court of Appeal. Sargant, L.J., thought that the payment was "essentially different from those various payments . . . which were of the nature of adding to, or improving the equipment, or otherwise made for the permanent benefit of the company."

On the other hand, payments of compensation for loss of offices paid *ex gratia* to employees on the occasion of the closing down of the business were held to be not made for the purpose of carrying on the trade. (*Commissioners of Inland Revenue* v. *Anglo Brewing Company, Limited* (1925).)

Repairs to Ships.

An interesting case dealing with repairs to ships was *Law Shipping Company, Limited*, v. *Commissioners of Inland Revenue* (1923). The company bought a second-hand ship at a date when her periodical Lloyd's survey was overdue but had been deferred pending the completion of a voyage then in contemplation. On her return six months later the survey was made and the company was obliged to spend a large sum in repairs. The Court of Session held that except for such part of the cost of the repairs as was attributable to the period during which the ship was employed in the company's trade, the cost was in the nature of capital expenditure, being equivalent to an addition to the price of the ship.

Law Costs re Income Tax Appeals.

Allen v. *Farquharson Brothers & Co.* (1932) decided that legal costs incurred by the firm in connection with an appeal to the Special Commissioners against assessments under Schedule D in respect of their trading profits were not an admissible deduction. Finlay, J., distinguished between such costs arising entirely in connection with the determination of income tax liability and ordinary expenditure on accountancy. He said: "I do not doubt that the expenditure of keeping an accountant . . . is a proper deduction to be made. I do not doubt, further, that the accountant's department will deal with matters of income tax in the sense that they will prepare the accounts for income tax and, as I suppose, sometimes discuss questions with the Inspector of Taxes or representatives from Somerset House which arise, and I do not suppose it would be sought to say that, by reason of that, the expenses of the accountants' department were not proper to be allowed." Referring, however, to the costs incurred in this case, he said: "I cannot see that the profits were in the slightest degree altered, either increased or diminished, as the result of this expenditure." He held that this was an application of profits after they had been earned and was not an

expenditure necessary to earn the profits. This case illustrates the fact that the profits to be determined are those of the trade and not those of the persons by whom the trade is carried on.

Chimney Replacement.

The cost of replacing a chimney was treated as capital expenditure in ***Bullcroft Main Collieries, Limited***, v. ***O'Grady*** (1932), Rowlatt, J., saying: "I do not think it possible to regard that as repairing a subsidiary part of the factory. I think it is simply having a new one. And they had them both. Perhaps they pulled down the old one; perhaps they kept it, because they thought it was an artistic thing to look at. There is no accounting for tastes in manufacturing circles. Anyhow, they simply built a new chimney and started to use that one instead of the old one." He thought the cost of renewing an entirety was not admissible and that in this case the entirety was the chimney.

These observations on tax cases will perhaps be of assistance in the interpretation of the Rules relating to Case I and Case II of Schedule D, but it must be remembered that each case is determined on its own facts as found by the Commissioners. A slight difference in facts may make a great difference in the application of the Rules.

Changes and Removals.

Messrs. Longhurst & Welch, Incorporated Accountants, have changed their address to Finsbury Court, Finsbury Pavement, London, E.C.2.

Mr. P. J. Goodchild, Incorporated Accountant, has removed his office to 4, Broad Street Place, London, E.C.2.

Mr. D. P. Chatterjee, B.A., B.Com., Incorporated Accountant, has commenced public practice at 87, Lower Circular Road, Calcutta, under the style of D. P. Chatterjee & Co.

Mr. Victor Walton, Chartered Accountant, 26 and 27, Bond Street, Leeds, has admitted into partnership Mr. Eric R. Longman, Chartered Accountant, who has been associated with him for the past five years. The business will be carried on under the style of Victor Walton & Co. at the same address.

"THE AUSTRALIAN ACCOUNTANT."

We have received a copy of the first issue of the *Australian Accountant*, which is published by the Accountants Publishing Company, Limited, Melbourne, on behalf of the Commonwealth Institute of Accountants and the Federal Institute of Accountants. The new journal supersedes the periodicals formerly published by these institutes separately—the *Commonwealth Journal of Accountancy* and the *Federal Accountant*. The first issue contains a brief account of the progress of the two institutes and the events which have led to its publication, in addition to a number of articles on topics of interest to the accountancy profession. It includes a reproduction of a lecture on "Mining Accounts" delivered by Mr. E. Cassleton Elliot, F.S.A.A., to the Incorporated Accountants' Students' Society of London, and first published in the *Incorporated Accountants' Journal* of June, 1912. It has been found that literature on this subject is scanty, and that, despite the lapse of time since it was delivered, this lecture contains many points of interest and value to-day.

District Societies of Incorporated Accountants.

NOTTINGHAM.

A luncheon was held at the Black Boy Hotel, Nottingham, on April 2nd, at which the guests of honour were Mr. Walter Holman, Vice-President of the Society of Incorporated Accountants, and Mr. Fred A. Prior, F.S.A.A.

Mr. H. R. Horne, the President of the District Society, was in the chair, and after the Loyal Toast had been honoured, he submitted the toast of "The Society of Incorporated Accountants." Mr. Horne welcomed Mr. Holman on behalf of the members of the District Society.

Mr. Holman, in replying, spoke of the ever increasing volume of work arising for the consideration of the Council. This work was for the benefit not only of the Society and its members, but of the accountancy profession as a whole, and while the results were not always readily seen, it was necessary that all matters affecting the Society and the profession should receive the most careful consideration of the Council and its Committees. He spoke of the work done by the District Societies, and asked for the support and interest of those members who were not already taking part in their activities.

Mr. Jesse Boydell, F.S.A.A., City Treasurer of Nottingham, submitted the toast of "Mr. Fred A. Prior," who had recently been appointed to the Council of the Society. He made reference to the most valuable work Mr. Prior had done for the District Society as Honorary Secretary from 1919 to 1926, and as President from 1928 to 1934, and offered him the heartiest congratulations on his election to the Council.

Mr. Prior briefly replied, saying how greatly he appreciated the honour recently conferred on him. He expressed the hope and opinion that the Society would continue to make still further progress, and would establish itself even higher in the estimation of the commercial world.

SOUTH WALES AND MONMOUTHSHIRE.

(CARDIFF AND DISTRICT STUDENTS' SECTION.)

On March 24th several members were permitted to view the working of the Powers Samas accounting machines at the offices of the Welsh Board of Health in Cardiff. Mr. Bickle, who is in charge of this section, gave an instructive demonstration of the uses of the machines in the department and explained at great length the various records kept and obtainable therefrom. Mr. R. R. Davies, A.S.A.A. (Chairman of the Students' Section) expressed the thanks of the members for the demonstration.

(NEWPORT AND CARDIFF STUDENTS' SECTIONS.)

The annual Rugby match between the Cardiff and Newport Students' Sections was played at Cardiff Arms Park on April 1st under the worst possible conditions. It had rained all morning and it continued to do so during the match. A keenly contested game was won by the Newport students by 8 points to 6.

After the match the two teams were entertained to tea by Mr. Percy Hayes, the Vice-President of the District Society.

Incorporated Accountants' District Society of North Staffordshire.

ANNUAL DINNER.

The annual dinner of the Incorporated Accountants' District Society of North Staffordshire was held in the North Stafford Hotel, Stoke-on-Trent, on April 1st. Mr. R. W. WOODHEAD (President of the District Society) was in the chair, and the company included the Lord Mayor of Stoke-on-Trent (Alderman J. H. Dale), Sir James Blindell, M.P. (Junior Lord of the Treasury), Mr. Walter Holman (Vice-President of the Society of Incorporated Accountants and Auditors), Sir Thomas Keens (Past President of the Society), Mr. Wm. Allen, K.C. (Recorder of Newcastle-under-Lyme), Mr. J. F. Carr (Director of Education), Mr. G. Playfer (President, North Staffordshire Institute of Bankers), Mr. G. W. Huntbach (President, North Staffordshire Law Society), Mr. R. T. Dunlop (President of the Scottish Branch), Mr. M. Clark (Principal, City School of Commerce), Mr. G. H. Downing (High Sheriff of Staffordshire), Mr. E. E. Edwards (Parliamentary Secretary, Society of Incorporated Accountants), Mr. A. P. Ford (Chairman, Stoke-on-Trent Branch, Chartered Institute of Secretaries), Mr. L. W. Caulcott (Inspector of Taxes), Lieut.-Col. W. J. Kent (President, North Staffordshire Chamber of Commerce), Mr. A. W. Watson (President, Birmingham District Society), Mr. F. C. Ormerod (Official Receiver in Bankruptcy), Mr. P. J. Cornell (Inspector of Taxes), Mr. H. P. Stanes (Registrar of the High Court), Mr. E. B. Sharpley (Town Clerk), Mr. H. Shipley (Hon. Secretary, Stoke-on-Trent Branch, Chartered Institute of Secretaries), Mr. T. Stinton (Headmaster, Newcastle High School), Mr. Percy Toothill (Sheffield), Mr. A. R. Capey (Foreign Manager, District Bank), Mr. S. Foster (President, West of England District Society), Mr. W. A. Nixon (President, Manchester District Society), Major E. S. Goulding (President, Liverpool District Society), Mr. A. F. Girling (Vice-President, Sheffield District Society), Mr. W. T. Manning (Hon. Secretary, Leicester District Society), Mr. James Paterson (Secretary, Scottish Branch), Mr. Halvor Piggott (Joint Hon. Secretary, Manchester District Society), Mr. J. W. Richardson (Hon. Secretary, Sheffield District Society), Alderman T. Mitchell (Chairman, Potteries Savings Bank), Mr. F. A. Webber (Hon. Secretary, West of England District Society), Mr. S. Wallis (Hon. Secretary, Nottingham District Society), and Mr. J. Paterson Brodie (Hon. Secretary).

The PRESIDENT (Mr. R. W. Woodhead), proposing the toast of "The Lord Mayor and Corporation of Stoke-on-Trent," said that accountants desired the best administration possible of municipal affairs, namely, an administration which combined prudence with economy and a progressive outlook. One question which was of particular interest to Incorporated Accountants was that of the independent audit of those transactions which lay outside the scope of Government audit. Some time ago the Stoke-on-Trent City Council very wisely set up an internal audit department under the control of the City Treasurer. This made for efficiency, but did not go far enough. The old system of elective auditors was now considered out of date. Elective auditors had in various ways been of great service to the ratepayers, but the volume of transactions had grown so tremendously in recent years as to make such audits merely perfunctory. It was not too much to hope that the City Council would in the near future decide to apply its powers of appointment of professional auditors, and so get what might briefly be called an "efficiency audit."

The LORD MAYOR (Alderman J. H. Dale) responded to the toast. He pointed out that Stoke-on-Trent was one of the very few county boroughs in the country which had not a superannuation scheme for municipal employees—a fact which deterred many from applying for posts in the higher ranks of the municipal service.

Sir JAMES BLINDELL, M.P. (Junior Lord of the Treasury), proposed the toast of "The Society of Incorporated Accountants and Auditors." He said that this was the most important toast which could possibly be submitted to a body of business men at the present juncture in the history of this country. The Society represented much to many people and interests outside itself. It was very old established. It had been in existence for over 50 years, and he understood it had a membership of nearly 7,000. If all those members were efficient members, then obviously the Society was one which must be reckoned with on many occasions. He submitted the toast from the standpoint of a detached observer. He had never made much money in business himself—just enough to keep alive, perhaps—(laughter)—and he had always relied to some extent on stronger men than himself. Just a week before a member of the Society had come to his headquarters in London, and had been instrumental in reducing his income tax by £103. (Laughter.) Obviously, they were a useful body of men. Viewing the profession from the outside, he thought it played a most important part in the commercial welfare and prosperity of the country. It safeguarded the integrity of the business community. It was the buffer between the business man and that hated fellow called the Tax Collector. To function properly, its members must see that equity and justice controlled their activities between those two individuals. They were the invaluable friends and counsellors of the small trader. As a strong individualist, he was a strong supporter of the small trader with ideas and initiative, and he could conceive of no profession which could be a better or a wiser friend to such a man. If, in these days when initiative did not receive its full reward, when business acumen did not count, when the man with ideas was afraid to put them forward because of official restrictions and red tape, if in spite of all this trade had grown in this country, it was the individual trader rather than the combine who was responsible for that return of prosperity. Great Britain had a commercial and financial reputation to maintain which could not be maintained without the co-operation of the counting-house. And the counting-house, in turn, could not be run without the efficient services which members of the Society rendered to it. London had been described as the financial centre of the world. That was a true description, largely because it realised the value of the experience of specially trained men such as belonged to the Society. It was true to say that Incorporated Accountants formed an indispensable part of the industrial, commercial and economic structure of this great nation. That being so, he commended them on having organised as they had. They organised, no doubt, largely to protect their own interests, but he hoped it was true that another reason for which they organised was to maintain a very high standard of efficiency inside the profession. If that was so their future was assured, and they would prosper in the future as they had done in the past, for efficiency counted all along the line. He attached the utmost importance to the words at the end of a balance sheet: "This balance sheet is properly drawn up so as to show the true and correct state of the affairs of this individual or company." That declaration of theirs was the real essence of confidence in trade. If they were slothful,

careless or too clever, they could do untold harm, not only to individuals and the State but to British trade generally. The letters F.S.A.A. were to him as a business man, and to the investing public as a whole, a valuable guarantee. Forty-five millions of people in this country and many more millions overseas expected them to maintain not only a standard of efficiency but one of integrity also—of confidence as between one business man and another; and the Government expected them to maintain the high and honourable standard of their relations between the Treasury and the taxpayer. If once it became thinkable that those words he had quoted could be questioned, the whole structure which they had built so carefully over so many years would be pulled down and undone. In a world of new economics, of industrial revolution, of great financial amalgamations, of fluctuating currencies, where potential production ran right away from consumptive capacity, where almost insuperable difficulties faced the business man, it was essential that business should be sound, safe and on a firm basis which could not possibly be questioned. He knew of no bulwark to protect the investing public except their efficiency and integrity. The standard they set would be the standard of British trade throughout the world. Once confidence went, with trade as with nations, the whole structure collapsed. In the future, their responsibilities would be greater than ever before. Trade was becoming more difficult, financial arrangements more complicated, all the time, as the result of laws passed during the past 40 or 50 years. It was becoming more and more difficult for the individual to exercise his initiative. The business man was usually a bad financier. It was for Incorporated Accountants to be his wise counsellors. Urging the Society to keep its standards of professional efficiency high, Sir James said he understood that in their Final examination, half the candidates failed. Never mind. Let them maintain their standards. (Applause.)

Mr. WALTER HOLMAN (Vice-President, Society of Incorporated Accountants and Auditors), responding, said that the North Staffordshire Society, though one of the younger and smaller District Societies, occupied a very important place in the Society as a whole. He could speak with unqualified optimism of the affairs of the Society itself, but felt less confidence in contemplating the profession of accountancy in its relations with the commercial world. When the North Staffordshire District Society was formed eleven years ago, a committee had just been appointed by the President of the Board of Trade to consider and report what amendments were desirable in the Companies Acts. As a result of that committee's work, the Companies Act, 1929, was passed, but its enactment coincided with the pricking of a bubble of speculative flotations in which the machinery provided by the legislature for the assistance of industry had been prostituted to foster the gambling instincts of investors. The pricking of that bubble not only involved the investing public in very heavy losses, but it did enormous damage in the destruction of confidence. In the intervening years there had been a series of cases before the Courts which had proved that the principle and machinery of limited liability had been used to mislead and defraud the public, in spite of the provisions for audit and report by which the interests of shareholders were intended to be safeguarded. Nor could he refrain from referring to the most recent methods adopted for luring investors through the medium of fixed trusts, in which investors possessed no rights to accounts, to audit or to control of any sort. This unsatisfactory state of affairs had done much to create suspicion and undermine confidence, and, what was more important to them that night, it tended to bring their profession into disrepute, or even into contempt. What were the remedies? In the first place, he did not think there was any real difference of opinion on the necessity for revising and strengthening the law relating to company accounts and audit. What difference existed in the profession itself was on the question when revision should be undertaken, and the extent of the changes desirable. Recent cases led him to suggest to Sir James Blindell that the time was fast approaching when the task of revision must be faced, and in the meantime he would express to him their satisfaction at the appointment of a committee to consider the question of fixed trusts, and their hope that the findings of that committee would be promptly followed by legislation. But while legislation could do much, he was not among those who attributed to legislators the prerogatives of omnipotence nor of those who attributed all their ills to the lack of a codified system of practice and ethics within the profession. An attempt to embody in a written code the application of legal enactments, of legal decisions and of accountancy principles to every conceivable accountancy circumstance, even if it were possible, would, in his view, cramp the profession and hinder that adaptability to varying and changing conditions which was the sign and cause of its development. He suggested that the challenge of present conditions was not so much to the profession as a whole as to the individuals composing it. There had never been lacking, nor ever would be, those who were out to exploit the trust, the ignorance, the gullibility and the cupidity of human nature; and not the least of the services they, as accountants, could render was to subject to the test of their expert knowledge, as well as to that of common sense, the schemes, proposals, prospectuses, advertisements and whatnot which were the snares set to catch the feet of the unwary. Mr. Holman, in conclusion, recommended the younger members of the Society to avail themselves of the opportunity offered by the Incorporated Accountants' Course to be held at Cambridge in July. (Cheers.)

Sir THOMAS KEENS (Past President of the Society) proposed the toast of "The Trade and Industries of the District." He commented on the fact that that day was the centenary of the publication of the first number of the *Pickwick Papers*, and pointed out the difference in the atmosphere which prevailed in industry and in commerce then and now. In those days, he said, Gradgrind and his pitiless greed rode roughshod over the land. To-day they had a happier and more humane industrial system. Great Britain's social services might be expensive, but they were certainly the best in the world. The spectre of unemployment was indeed terrifying; nevertheless the unemployed man in this country was better off than the employed man in many other countries. We had emerged from the Slough of Despond we were in in 1931, and if we could avoid international difficulties we could look forward to a period of still better trade. André Siegfried, in his book, *England's Crisis*, said that we were on the downward path, but he forgot the most important thing of all about England—the indomitable spirit of the English people. Had the romance of trade and industry gone? He thought not. In the Middle Ages, the romance of industry clustered round the galleons which left this land for far-distant shores. They were badly equipped in every respect, but they went and carried this country's goods to the farthest confines of the then known world. To-day the galleons no longer sailed the seas, but the *Queen Mary* was afloat. The merchant adventurer of to-day did not set sail in a

galleon, but sat in his counting house, using all the marvels of modern science—the telegraph, the radio, the air mail—to keep in touch with his customers. The spirit of the merchant princes of old was not dead. It lived in the small traders of to-day, who were really the backbone of industry. Economists said that essential qualities for the trade and industrial success of a country were an equable climate, accessibility to the sea, a long coastline with good harbours, an abundant supply of raw materials, and, above all, a virile industrial people. The Potteries district was rich in such people. It was noted for its multiplicity of industrial concerns of moderate size. He had little faith in industrial undertakings of Gargantuan size, maintaining that the ideal industrial unit was large enough to allow opportunities for research, but small enough for its executives to know the details of the undertaking and to have contact with the employees at every stage. Such concerns abounded in the Potteries, in which, he was glad to note, the individual craftsman still flourished. It would be a sorry day for England when the craftsman flourished no more. (Applause.)

Lieut.-Col. W. J. KENT (President of the North Staffordshire Chamber of Commerce), responded.

In the absence of Mr. M. P. Ferneyhough (Vice-President of the District Society), the toast of "The Visitors" was proposed by Mr. J. PATERSON BRODIE, the Hon. Secretary. The response to this toast was shared by Mr. WILLIAM ALLEN, K.C. (Recorder of Newcastle-under-Lyme), Mr. GERALD W. HUNTBACH (Deputy City Coroner of Stoke-on-Trent and President of the North Staffordshire and District Law Society), and Mr. R. T. DUNLOP (President of the Scottish Branch of the Society of Incorporated Accountants). Mr. Allen endorsed the remarks of Mr. Holman on the subject of fixed trusts, and said he hoped the Government would soon take strong steps about them.

Presentations were made by the President of a pair of Doulton figures to Mr. Holman and a coffee service to Sir James Blindell.

Scottish Notes.

(FROM OUR CORRESPONDENT.)

Councillors' Expenses Challenged.

The auditor of the Scottish Education Department has challenged a number of payments made to members of the Lanark County Council in respect of personal expenses, and for time necessarily lost from employment while they were engaged on Council duties. Amongst the auditor's criticisms he refers to charges for travelling and personal expenses by members who attend their ordinary place of business on the same days as meetings are held in Glasgow, and for travelling expenses in respect of absence from their ordinary place of residence, which do not appear to be necessarily incurred. He refers to cases where members are reputed to be employed by their own children, and he asks whether verification has been obtained that the employment is *bona fide*. He cites cases where a full day's allowance is claimed where the meeting lasted only about an hour, and in another case where allowance for half a day was claimed for a meeting which lasted for a little over an hour in the evening. It is alleged that cases have been known where members who were provided with meals during delegations, charged expenses for subsistence, while others claimed for personal expenses when they were asked to sign school registers at local schools.

The Finance Committee, after considering the auditor's report, made recommendations embodying certain principles for the future payment of members' expenses.

A Sequestration Decision.

The First Division of the Court of Session gave an important judgment recently in a reclaiming motion for the Scottish Milk Marketing Board in a petition at their instance for the sequestration of the estates of a firm of farmers in the South-East of Scotland, under the Bankruptcy (Scotland) Act, 1913.

Stated briefly, the farmers were indebted to the Milk Board in the sum of £269 1s. 7d. An extract decree for £112 10s. 11d. was produced, with an executed charge following thereon, and the Board's contention was that the farmers were notour bankrupt. Neither the decree nor the execution of the charge following thereon was challenged, but the defenders averred generally that they were solvent, and specifically, that they owned valuable unburdened heritage and stock, and that they had no outstanding debts except such as might be due to the Board, and a secured bank overdraft for £800.

In the Outer House, Lord Pitman allowed the defenders a proof of their averments. In the course of his opinion the Lord Ordinary said that to say that a firm which owed £200 or £300, and was owner of a farm which cost over £6,000 and was unburdened, with a stock on it belonging to them worth over £3,000, was insolvent, was verging on the ridiculous. It seemed to his Lordship ridiculous that an estate worth some £9,000 should be transferred to a trustee to ensure payment of a comparatively trifling amount.

The Lord Ordinary's interlocutor was reclaimed by the Board to the Division. Their Lordships, by a majority of three to one, recalled the interlocutor appealed against, and made remit to the Lord Ordinary in order that sequestration might be awarded.

The Lord President said that under sect. II of the Act of 1913, sequestration of a living debtor might be awarded on a creditor's petition if, *inter alia*, the debtor was notour bankrupt, and under sect. 5 notour bankruptcy was constituted by insolvency concurring with a duly executed charge for payment, followed by expiry of the days of charge without payment. The statute did not require that before sequestration was awarded the debtor should be insolvent in any other sense than that he was instantly unable to pay his debts. Nor did the Bankruptcy Act any more than other statutes take into account contumacious refusal to pay lawful debts as a relevant answer to the creditor. It gave no countenance to an attitude so repugnant to legal principle and good sense as that taken up by the respondents. The substance of the whole statutory procedure was that no rational and solvent person would allow his credit to be destroyed if he was able to pay in terms of the charge. It was for that reason that the expiry of the charge without payment was presumptive proof of insolvency.

Lord Morison, who with Lord Fleming, agreed with the Lord President's opinion, said he hoped that the respondents would make "instant payment," and so avert the award of sequestration. Counsel for the Board explained that the ordinary methods of diligence were rendered nugatory by concerted action by local farmers in thwarting the Board's scheme of milk distribution.

Income Tax—Annual Payments.

In a case which came before the First Division of the Court of Session recently on an appeal from a decision of the Special Commissioners, the question of the liability to tax of annual payments by guarantors was decided.

Moss' Empires Ltd. and the Theatre Royal, Drury Lane, Ltd., agreed by guarantee that if the profits of a company to be formed—afterwards incorporated as the Dominion Theatre Ltd.—were insufficient to pay 7½ per cent., less income tax at the current rate—for each of the five financial years of the company, ending January 30th, 1933, payment would be made of a sum sufficient to make up the dividend. If there were no profits, the guarantors were to pay a sum required to pay the fixed

dividends. The guarantors were called upon to fulfil their obligation in each of the five years. Assessments were made on Moss' Empires under Rule 21, as amended by the Finance Act, 1927, in respect of the sums actually transferred by that company under the guarantee.

The appellants contended that they were not, within the meaning of Rule 21, persons making an annual payment charged with tax under Schedule D.

The Division by a majority confirmed the assessments.

Notes on Legal Cases.

[The abbreviations at the end of each of the cases refer to the following law reports, where full reports of the case may be found. The Law Reports and other reports are cited with the year and the Division, *e.g.* (1925) 2 K.B. :—

T.L.R., *Times Law Reports ; The Times, The Times* Newspaper ; L.J., *Law Journal ;* L.J.N., *Law Journal* Newspaper ; L.T., *Law Times ;* L.T.N., *Law Times* Newspaper ; S.J., *Solicitors' Journal ;* W.N., *Weekly Notes ;* S.C., *Session Cases (Scotland) ;* S.L.T., *Scots Law Times ;* I.L.T., *Irish Law Times ;* J.P., *Justice of the Peace (England) ;* L.G.R., *Knight's Local Government Reports ;* B. &. C.R., *Bankruptcy and Company Cases.*

The other abbreviations used in modern reports are H.L., House of Lords ; A.C., Appeal Court (House of Lords and Privy Council) ; C.A., Court of Appeal ; Ch., Chancery Division ; K.B., King's Bench Division ; P., Probate, Divorce and Admiralty Division ; C.S., Court of Session (Scotland) ; J., Mr. Justice (King's Bench or Chancery) ; L.J.. Lord Justice ; L.C., Lord Chancellor ; M.R., Master of the Rolls ; N.I., Northern Ireland ; P., Probate, Divorce and Admiralty.]

BILLS OF EXCHANGE.

Haseldine v. Winstanley.

Omission of Name of Drawee.

M drew two bills of exchange, and by means of fraud persuaded the defendant to accept both bills. At the time of acceptance no name of any drawee appeared on either bill. On the following day he took the bills to the plaintiff, who agreed to get them discounted at his bank. The plaintiff by mistake inserted in both bills the name and address of M as drawee and left them with the bank, which refused to discount them. M asked the plaintiff to discount the bills, which he did, and with the consent of M the plaintiff altered the name and address of the drawee on both bills to those of the defendant. The plaintiff, who had no notice of any fraud, subsequently presented the bills to the defendant, who refused to honour them.

It was held (1) that the substitution of the defendant's name as drawee for that of M, with the approval of M, who was then the holder of the bills, was a proper alteration, made the documents good bills of exchange on which the defendant could be sued ; (2) if the documents were not good bills of exchange, the alteration would not be a material one within sect. 64 (1) of the Bills of Exchange Act, 1882, and the defendant would be liable on the documents as good promissory notes.

K.B. : (1936) L.T.N., 169.)

COMPANY LAW.

Kenyon v. Darwen Cotton Company.

Deduction from Wages.

The Court of Appeal held that a deduction from wages in respect of an agreement by a workman to take up and to pay for shares in his employing company is void under the Truck Act, 1931.

(C.A. : (1936) L.J.N., 128.)

EXECUTORSHIP LAW AND TRUSTS.

In re A. E. Nunn.

Portion of Will Cut Out Bodily.

A small portion of a will was cut out bodily, and the remaining parts were stitched together.

It was held that the missing words were cut out by the testator with the intention of revoking them, and the will in its mutilated form was admitted to probate.

(P. : (1936) L.T.N., 193.)

REVENUE.

Loughnan v. Marston's Dolphin Brewery.

Lease of Tied Licensed Premises.

The House of Lords held that where tied houses are leased at rents which include the value of the ties, the difference between the Schedule A assessment and the rent is not assessable under Schedule D.

(H.L. : (1936) L.J.N., 204.)

Fenton's Trustee v. Inland Revenue Commissioners.

Interest Charges.

A taxpayer had in 1918 borrowed a sum from a bank, and nothing had been paid by him in respect of that account by way of reduction of principal or interest, the interest charges having been debited each half-year by the bank and added to the principal. For each of the years 1920-21 and 1921-22 the taxpayer's total income, after the payment of certain other charges, had left an available balance, and he claimed under sect. 36 (1) of the Income Tax Act, 1918, repayment of income tax on the interest charges for each of the above years to the extent of the balance available for each year.

It was held by the Court of Appeal that sect. 36 (1) did not confer any abstract right on a borrower to attribute interest charges to a fixed fund merely because a taxed fund was at the time available. In every case the actual facts must be regarded, and the conduct of the taxpayer must not be inconsistent with such attribution.

Though the interest charges in the present case were to be deemed to have been paid by the taxpayer to the bank within the meaning of sect. 36 (1), they were not paid out of his profits or gains brought into charge to tax, because on the facts of the case the taxpayer must be deemed to have elected to treat the interest charges as having been paid out of moneys borrowed from the bank by way of addition to the debt and not as paid out of any profits or gains brought into charge to tax, and income tax on the interest charges was, accordingly, not recoverable.

(C.A. : (1936) 52 T.L.R., 273.)

Whelan v. Alfred Leney & Co.

Lease of Licensed Premises with "Tying" Covenant.

The respondents, who were the owners of a number of licensed houses let to publicans subject to tying covenants, demised the premises to another firm of brewers. The aggregate of the rents received exceeded the aggregate of the annual values of the premises as assessed to tax under Schedule A. An assessment was made on the respondents under Schedule D in respect of the excess on the ground that it was a trade receipt arising from the assigning of their trade connection.

It was held by the House of Lords, affirming the decision of the Court of Appeal, that the sum paid by the lessees to the lessors was a rent only, and could not be split into two parts ; that the liability of the respondents to tax was exhausted by the Schedule A assessments, and that they were therefore not liable to assessment under Schedule D in respect of the excess.

(H.L. : (1936) 52 T.L R., 329.)